

Legislative Budget Analysis 2011 Biennium

Volume 5—Agency Budgets

Natural Resources and Transportation
(Section C)



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Legislative
Fiscal Division



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Legislative Budget Analysis

2011 Biennium



Volume 5 – Agency Budgets

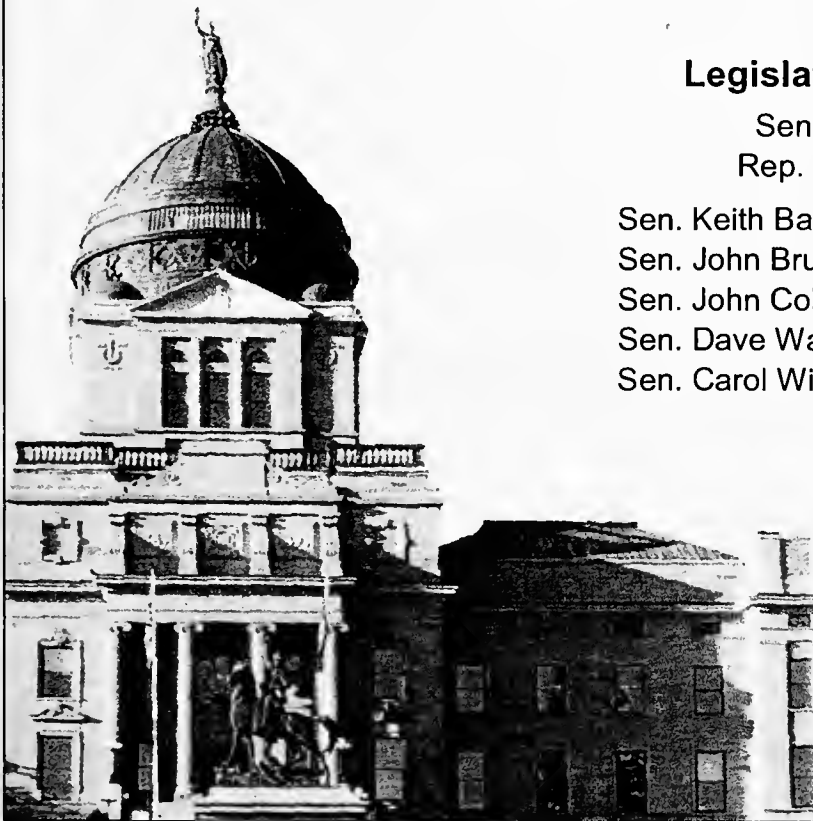
Presented to the Sixty-First Legislature

Submitted by the
Legislative Fiscal Division

Legislative Finance Committee

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AGENCY SUBCOMMITTEE GROUPINGS

The following sections (A through F) provide a detailed explanation and analysis of the executive budget for each agency and agency program that contains appropriations in HB 2. The agencies are grouped by functional categories that mirror agency groups by appropriations subcommittee. The groups are summarized below. Programs funded with proprietary funds are not funded in HB 2, but an explanation and analysis of these programs are included in each agency narrative for the purpose of legislative rate-setting.

GENERAL GOVERNMENT (Section A)

- Legislative Branch
- Consumer Counsel
- Governor's Office
- Secretary of State
- Commissioner of Political Practices
- State Auditor
- Revenue
- Administration
- Montana Consensus Council
- Commerce
- Labor and Industry
- Military Affairs

EDUCATION (Section E)

- Office of Public Instruction
- Board of Public Education
- School for the Deaf and Blind
- Montana Arts Council
- State Library Commission
- Montana Historical Society
- Commissioner of Higher Education
- Community Colleges
- University Units and Colleges of Technology
- Agricultural Experiment Station
- Montana Extension Service
- Forestry and Conservation Experiment Station
- Bureau of Mines & Geology
- Fire Services Training School

HEALTH AND HUMAN SERVICES (Section B)

- Public Health and Human Services

LONG-RANGE PLANNING (Section F)

- Long-Range Building Program
- State Building Energy Conservation
- Long-Range Information Technology Program
- Treasure State Endowment Program
- Treasure State Endowment Regional Water System
- Renewable Resource Grant & Loan Program
- Reclamation & Development Grant Program
- Cultural and Aesthetic Grant Program
- Quality School Facilities Program

NATURAL RESOURCES AND TRANSPORTATION (Section C)

- Fish, Wildlife, and Parks
- Environmental Quality
- Transportation
- Livestock
- Natural Resources and Conservation
- Agriculture

Where can you find each section in the *Legislative Budget Analysis 2011 Biennium*, Volumes 3-7?

JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE (Section D)

- Judicial Branch
- Crime Control Division
- Justice
- Public Service Regulation
- Office of Public Defender
- Corrections

- Volume 3 contains Section A
- Volume 4 contains Section B
- Volume 5 contains Section C
- Volume 6 contains Section D
- Volume 7 contains Sections E & F

AGENCY BUDGET ANALYSIS (ROAD MAP)

The purpose of the “Agency Budget Analysis” (LFD Volumes 3 through 7) is to provide a resource for legislators and members of the public to understand and allow for action on state agency budgets. It is designed to be a working document for use by the joint appropriations subcommittees. It does this by:

- Detailing components of the executive budget
- Raising budget and other issues for legislative consideration

This section provides a roadmap for using the Agency Budget Analysis volumes by discussing each component.

BUDGET TIERS

The section is constructed based on the statutory requirement that the budget be presented in three tiers:

1. Base budget;
2. Present law budget; and
3. New proposals.

(For a further explanation of these tiers and how they are derived, see page 1 of the “Reference” section, or the publication entitled “Understanding State Finances and the Budgeting Process”, available through the Legislative Fiscal Division and on the Internet at http://leg.mt.gov/content/publications/fiscal/leg_reference/Understanding_State_Finances.pdf). The analysis is presented in a manner to allow the legislature to see and act on each present law adjustment and new proposal made to the base budget to derive the executive budget, by summarizing and raising issues with those adjustments.

LEGISLATIVE FISCAL DIVISION (LFD) ISSUES AND COMMENTS

While LFD staff has written the entire analysis document, parts are meant strictly to explain what is in the executive budget in a way that does not justify or advocate the executive position.

The heart of the analysis is in two areas:

1. The LFD issues and comments provided on the proposed budget. If the LFD analyst has raised an issue with anything contained in the executive budget or with any other aspect of agency operations and expenditures, it is included as an “LFD Issue”. The analyst may also provide additional information to aid the legislature in its decision making under the heading “LFD Comment”. All issues and comments are clearly identified in the narrative; and
2. Other issues and options. In order to provide the legislature with alternatives to the executive budget, as well as budget-making flexibility, LFD staff has provided other issues and options for consideration by the legislature.

COMPONENTS OF THE AGENCY BUDGET ANALYSIS

For all multiple program agencies, the narrative is divided into two parts:

1. The agency narrative; and
2. The program narrative.

Agency Narrative

The agency narrative provides an overview of the executive budget and other issues and options for that agency. Since the legislature appropriates at the program level, only issues raised in the analysis with an agency-wide or multiple-program impact are discussed at this level. All other discussion occurs within the relevant program narratives.

Each agency narrative has the following components.

1. The **Main Table** shows the adjusted actual expenditures and appropriations of the current biennium and the executive request for the upcoming biennium by year. The reader can use this table to get a general idea of the size and funding of the agency, and compare the upcoming biennium totals to the current biennium.
2. **Agency Description** is a brief description of the agency, along with its mission statement.
3. **Agency Highlights** is a table showing the principal factors influencing the budget and any related discussion. It is designed to aid the reader in gaining an understanding of the overall agency budget or significant budget areas.
4. **Agency Discussion** provides additional information or overarching discussion. In addition, if the previous legislature funded any new initiatives of an agency-wide nature, a brief update is provided. For each agency, any agency-wide goals and objectives pertinent to the legislature's discussion, as well as a recap of any agency-wide goals and objectives monitored by the Legislative Finance Committee during the interim, are listed and discussed as appropriate.
5. **Personal Services** provides the legislature, as part of a new initiative, with pertinent data on personal services that would allow the legislature to identify and address those factors impacting personal services expenditures and related policy issues. Factors addressed in this section include market salaries and obstacles to achievement of market goals. The program sections address other, program specific questions.
6. **Funding** is a table and related discussion that shows the total biennium funding, by program and fund type, proposed by the Governor.
7. **Statutory Appropriation** is a table showing any statutory appropriations received by the agency, in order to provide a more complete picture of total appropriations.
8. **Budget Summary by Category** summarizes the executive budget by base budget, statewide present law adjustment, other present law adjustments, and new proposals proposed by the Governor for each year of the biennium.
9. If included by the executive, a discussion of the following two types of proposals is included, each with LFD comments as appropriate:
 - o **Supplemental Appropriations** discusses supplemental appropriations recommended by the Governor for FY 2007, or supplemental appropriations approved in FY 2006
 - o **Reorganizations** details any major reorganization that took place in the 2007 biennium or is proposed by the executive for the 2009 biennium
10. **Language** includes any agency-wide language proposed by the executive.
11. **Executive Recommended Legislation** is a listing and discussion of any legislation with a likely fiscal impact proposed by the executive and pertinent to the agency. This section is designed to alert the legislature to other legislation not included in HB 2 that could have a bearing on the agency budget and operation.
12. **Agency Issues** is a discussion by the LFD analyst of any identified agency-wide or multi-program issues. Otherwise, all discussions of adjustments and attendant issues are included in the relevant program narratives.
13. **Elected Officials New Proposals** lists new proposals advocated by agencies headed by either an elected official or the Board of Regents but not included in the executive budget.

Note: The main and budget summary tables, the agency description, mission, and the highlights and funding tables are included in each agency narrative. However, the other components are "optional", indicating they are included only if circumstances warrant.

Program Narrative

Narratives detailing each agency program follow the agency narrative. The program narrative contains the following components.

1. The **Main Table** contains the same information as the agency main table for each program of the department, including adjusted actual expenditures and appropriations of the current biennium and the executive request for the upcoming biennium, by year.
2. **Program Description** is a short description of the program and its functions.
3. **Program Highlights** is a table showing the principal factors influencing the budget and any related discussion.
4. **Program Narrative** details any points of overall program discussion by the LFD analyst. If the previous legislature funded any new initiatives, a brief update is provided.
5. **Funding** details program funding as proposed by the executive, and any issues raised by the LFD analyst.
6. **Program Reorganization** details any program reorganizations that took place in the 2005 biennium or that are proposed by the executive for the 2009 biennium.
7. **Budget Summary by Category** summarizes the executive budget by base budget, statewide present law adjustment, other present law adjustments, and new proposals proposed by the Governor for each year of the biennium.
8. The **Executive Present Law Adjustments Table** delineates the major present law adjustments included by the executive, by fiscal year and funding source. The table is divided into two sections:
 - Statewide present law adjustments, which include most personal services adjustments, the executive's vacancy savings recommendation, and adjustments due to fixed costs and inflation
 - Other present law adjustments proposed by the executive
9. **Executive Present Law Adjustments** discusses each adjustment proposed by the executive in more detail. The section begins with a discussion that addresses personal services expenditures and policy issues specific to the program, including market rate, vacancies, how the legislatively applied vacancy savings was met, pay changes made outside of any legislative pay changes, and the number of employees eligible for full retirement and the related unfunded liability. This discussion is followed by a description of each adjustment proposed by the Governor. The LFD analyst writes the adjustment descriptions based upon justifications submitted by the executive. It should be noted that it is the responsibility of the LFD analyst to explain a requested change, but not to advocate for or attempt to justify that request. If the LFD analyst has raised an issue with the adjustment, it is presented when the adjustment is discussed.
10. The **New Proposals Table** shows each new proposal requested by the executive, by fiscal year and funding source.
11. **New Proposals** discusses each new proposal in more detail. If the LFD analyst has raised an issue with the proposal it is presented with that new proposal. As with present law adjustments, the LFD has written these explanations based upon submissions by the executive. For certain new proposals (and significant present law adjustments), a discussion submitted by the agency (with editing for clarity and brevity by LFD staff) is included that discusses goals, performance criteria, milestones and timetables, and other information designed to provide the legislature with information with which to evaluate the proposal. LFD staff provides any comments or issues with the submission.
12. **Language** recreates any program specific language proposed by the executive, with LFD comments as appropriate.

13. **Executive Recommended Legislation** is a listing and discussion of any legislation with a likely fiscal impact proposed by the executive and pertinent to the program.
14. **Other Issues** contains any issues identified by the LFD analyst unrelated to a specific present law adjustment or new proposal.

The legislature does not appropriate enterprise funds (which fund operations that provide goods or services to the public on a user charge basis) or internal services funds (which fund operations that provide goods and services to other entities of state government on a cost-reimbursement basis). However, the executive must review enterprise funds and the legislature approves all internal service rates. If the program includes a function supported by either an enterprise fund or an internal service fund, a separate section within the relevant program provides the following:

1. A **Fund Balance Table** shows actual and projected rates, revenues, expenditures, and fund balance through FY 2009; and
2. **Narrative** contains a discussion of the function, a description and explanation of the rate requested, and a discussion of any significant present law adjustments or new proposals impacting the requested rate. The LFD analyst addresses any issues and comments as appropriate.

STATEWIDE PRESENT LAW ADJUSTMENTS

"Statewide Present Law Adjustments" are those adjustments applied to each agency based upon either: 1) factors beyond the individual agency control; or 2) other underlying factors. Because of the global application of these factors and the need for consistency among agencies, these adjustments are included in the "statewide" section of the present law table to alert subcommittees and other decision makers that, if adjustments are made to these costs, adjustments should be made to the underlying factors upon which the adjustments are based. The Legislative Finance Committee (LFC) will make a recommendation on these and other adjustments to appropriations leadership.

Personal Services

Personal services costs are derived by taking a "snapshot" of state employee positions and the factors determining compensation rates at a particular point in time. A number of underlying factors will make the upcoming biennium personal services costs different from actual base year costs. The most important are:

Current Biennium Pay Plan and Other Benefits

The 2007 legislature adopted a pay plan that, among other features, provided two increases.

1. An overall increase in pay of 3.0 percent in each year of the biennium and a further 0.6 percent discretionary fund increase, both beginning on October 1 of each year.
2. An increase in insurance rates of \$33 per month beginning on January 1, 2008 and a further increase of \$36 per month on January 1, 2009 (the increases for the Montana University System begin on July 1 of each fiscal year).

Since the pay plan was increased in FY 2009 and not fully implemented in the base year, adjustments were made to each employee's compensation to reflect actual agency costs in the 2011 biennium. In addition, any changes made to benefits that an agency must pay directly to or in support of an employee, such as pension, or unemployment and workers' compensation insurance, are automatically reflected in the present law personal services.

Vacancy Savings

Vacancy savings is a reduction in personal services costs that results when positions are not filled for the entire year. Vacancy savings will fluctuate within agencies and programs from year to year. In order to provide the legislature with the opportunity to make all policy decisions regarding vacancy savings, each position is funded as if the position were filled for the entire year, regardless of any vacancy savings that may have occurred in FY 2008.

Termination Pay

Costs incurred by agencies due to termination of employment, such as accrued sick or annual leave, are not included in present law.

Other Adjustments to Pay

All other changes to salaries authorized during the biennium through the "snapshot" date (July of FY 2008) are included in present law.

Any adjustments to personal services from sources within the control of the executive, such as overtime, new or deleted positions, or proposed transfers, should not be included in the statewide adjustments. If the LFD analyst has identified any of the adjustments in the statewide adjustment line, they are discussed as an LFD issue or comment.

Vacancy Savings

As of this writing, the executive has proposed a 4 percent vacancy savings rate on all salaries and benefits, including insurance, for most positions. Exempted positions include university system faculty, and those in agencies with fewer than 20 full-time equivalent positions, the Judicial Branch, the highway patrol, game wardens, and the Legislative Branch.

Inflation/Deflation

The executive budget has inflated or deflated certain operating expenses. Each agency budget is automatically adjusted to add inflation to or subtract deflation from the relevant expenditure items. Therefore, changes to inflation/deflation amounts in the agencies can only be made through an adjustment to the actual expenditure against which the inflation/deflation is applied, rather than to the inflation/deflation factor, itself.

Note: A complete listing of expenditure categories inflated or deflated in the executive budget has been included in the "Reference" section.

Fixed Costs

Fixed costs are costs charged to agencies to fund the operations of certain centralized service functions of state government (such as information technology, messenger services, and legislative audit). Costs charged to the individual agency budgets are based upon the cost in the service agency and the method used to allocate those costs. These fixed costs are automatically added to each agency budget, as appropriate. Any changes to these allocations must be made through a change to the service agency budget, or to the allocation method used by the service agency. The General Government and Transportation Subcommittee will review the fixed costs proposals.

Note: A complete listing of all fixed costs is included in the "Reference" section.

NATURAL RESOURCES AND TRANSPORTATION

Section C

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE AND CLAIMS COMMITTEES

-----Agencies-----

Fish, Wildlife & Parks
Environmental Quality
Transportation

Livestock
Natural Resources and Conservation
Agriculture

-----Committee Members-----

House

Representative Galen Hollenbaugh (Chair)
Representative Duane Ankney
Representative Llew Jones
Representative Robert Mehlhoff

Senate

Senator Rick Ripley (Vice Chair)
Senator John Brenden
Senator Mitch Tropila

-----Fiscal Division Staff-----

Barbara Smith
Greg DeWitt

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	678.60	678.60	692.08	692.08	678.60	692.08	13.48	1.99%
Personal Services	35,172,548	38,623,024	39,784,240	39,921,881	73,795,572	79,706,121	5,910,549	8.01%
Operating Expenses	27,384,975	28,089,797	30,963,521	31,016,448	55,474,772	61,979,969	6,505,197	11.73%
Equipment & Intangible Assets	1,060,192	696,774	915,212	915,212	1,756,966	1,830,424	73,458	4.18%
Capital Outlay	166,889	0	221,889	221,889	166,889	443,778	276,889	165.91%
Grants	1,032,521	1,535,807	985,521	985,521	2,568,328	1,971,042	(597,286)	(23.26%)
Benefits & Claims	4,850	6,188	4,850	4,850	11,038	9,700	(1,338)	(12.12%)
Transfers	24,374	99,652	99,652	99,652	124,026	199,304	75,278	60.70%
Total Costs	\$64,846,349	\$69,051,242	\$72,974,885	\$73,165,453	\$133,897,591	\$146,140,338	\$12,242,747	9.14%
General Fund	0	0	500,000	500,000	0	1,000,000	1,000,000	n/a
State Special	50,860,770	53,604,968	56,919,947	57,042,866	104,465,738	113,962,813	9,497,075	9.09%
Federal Special	13,985,579	15,446,274	15,554,938	15,622,587	29,431,853	31,177,525	1,745,672	5.93%
Total Funds	\$64,846,349	\$69,051,242	\$72,974,885	\$73,165,453	\$133,897,591	\$146,140,338	\$12,242,747	9.14%

Agency Description

Agency Mission: Montana Fish, Wildlife & Parks, through its employees and citizen commission, provides for the stewardship of the fish, wildlife, parks and recreational resources of Montana, while contributing to the quality of life for present and future generations.

Fish, Wildlife and Parks (FWP) is responsible for the management of Montana's fish, wildlife, parks, and recreational resources. The department is also responsible for a state park system that includes scenic, historical, cultural, and recreational resources. The operational programs are in eight divisions and seven regional field offices. The five-member governor appointed FWP Commission provides policy direction on resource management, seasons, fees and use of department lands.

The Agency has four overarching goals:

- Create a work environment where priorities are clear; the decision-making process is efficient and effective; and where employees feel a sense of accountability, value, and satisfaction in their achievements and their contributions to the agency mission.
- Provide quality opportunities for public appreciation and enjoyment of fish, wildlife, and parks resources.
- Maintain and enhance the health of Montana's natural environment and the vitality of our fish, wildlife, cultural, and historic resources through the 21st century.
- Emphasize education, communication, and responsible behavior to afford citizens the opportunity to better understand and participate in the decision-making process that sustain our natural, recreational and cultural resources for future generations.

Agency Highlights

Department of Fish, Wildlife and Parks Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The biennial budget would increase 9 percent if the executive proposal is adopted due primarily to statewide present law adjustments ◆ The executive is seeking to add 13.48 permanent FTE and is requesting funding for modified FTE as well ◆ State special revenue authority is increased by 13.5 million, most of which is from the general license account due to statewide adjustments and new proposals ◆ The executive is requesting \$1.0 million one-time only general fund for match to the state wildlife grant program ◆ The executive submitted the budget and legislative goals approved by the FWP Commission ◆ 116 employees (17 percent of the department) are eligible for full retirement and represent an unfunded liability of \$2.2 million 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success ◆ The general license account is not structurally balanced as FY 2011 proposed expenditures of \$84.8 million exceed the revenues of \$80.1 million 	

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

LFD ISSUE

The agency submitted the budget and legislative goals that were approved by the FWP Commission. The goals are actually the strategic priorities from the department's March 2008 strategic plan. This format is not consistent with what is required for submission in 17-7-111 (3), MCA. The required format is to contain goals and objectives for each program within an agency. They are to be in concise form and contain specific and quantifiable information from which to establish appropriations policy. In addition, the goals and objective must allow for future determination if those goals and objectives have been met. The legislature may wish to discuss with the agency the provision of goals and objective as required by law.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Agency Market** – The agency's actual target market ratio was 91 percent relative to the FY 2006 market survey and is 89 percent in FY 2008. The agency does have a plan to adjust salaries according to a pay progression model utilizing excess vacancy savings and any discretionary funding

- o **Obstacles** - FWP funding sources must pay for the pay increases. FWP will not ask for fee adjustments during the 2011 biennium and must sustain any pay adjustments within existing fund balances through 2013
- o **Retirements** – The agency has 116 employees, approximately 17 percent of the department, eligible for full retirement with an unfunded compensation liability of \$2.2 million, the majority of which would be paid for with general license dollars

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Information Services Division	\$ -	\$ 9,239,533	\$ 263,218	\$ 9,502,751	6.50%
02 Field Services Division	-	20,904,566	995,846	21,900,412	14.99%
03 Fisheries Division	500,000	10,848,085	16,957,178	28,305,263	19.37%
04 Enforcement Division	-	18,207,407	713,781	18,921,188	12.95%
05 Wildlife Division	500,000	10,625,810	9,978,295	21,104,105	14.44%
06 Parks Division	-	17,639,336	578,103	18,217,439	12.47%
08 Communication And Education Div	-	5,908,406	1,458,625	7,367,031	5.04%
09 Management And Finance	-	20,589,670	232,479	20,822,149	14.25%
Grand Total	\$ 1,000,000	\$ 113,962,813	\$ 31,177,525	\$ 146,140,338	100.00%

The department's biennial budget of \$146.6 million consists of 78 percent state special revenue, 21 percent federal special revenue and 1 percent general fund. Of the \$13.9 million of federal funding secured in FY 2008, \$10.4 was derived from federal aid programs.

The state special revenue sources are primarily license revenues, light vehicle registration, and gasoline tax funding. General license revenues are used to support operations of the department, while all other state special revenue has been earmarked for a specific purpose and is used in that manner.

The general fund is utilized as match for federal state wildlife grants.

Significant Federal Funding

The Federal Aid in Wildlife Restoration Act, commonly referred to as Pittman-Robertson began in July of 1938. The purpose of this funding is to provide for the selection, restoration, rehabilitation, and improvement of wildlife habitat, wildlife management research, and the distribution of project information. An amendment to the program added funding for hunter safety and the development, operation, and maintenance of public shooting ranges.

Funding for the program comes from an 11 percent federal excise tax on sporting arms, ammunition, and archery equipment, as well as a 10 percent tax on handguns. Funds are proportioned to states based on a formula considering total area of the state and licensed hunters in the state.

The program is a cost reimbursement program where the state covers the full amount of the project and applies for reimbursement of up to 75 percent of the expenses. The state provides the other 25 percent from a nonfederal source.

Parallel to this program is the Federal Aid in Sport Fish Restoration act, referred to as Wallup-Breaux in recognition of the major revisions to the act completed in 1984. Modeled after Pittman-Robertson, Wallup-Breaux provides funding for the management, conservation, and restoration of fishery resources. Excise taxes on fishing rods, reels, creels, lures, flies, and artificial bait provide funding for the program.

Like Pittman-Robertson, Wallup-Breaux funds are distributed on a formula basis, based on the number of licensed anglers and land and water mass of the state. This is also a cost-reimbursement program where up to 75 percent of approved project costs can be recovered.

The federal programs come with specific requirements. Montana has agreed to use state hunting and fishing license revenues (and subsequent interest earnings) for only fishery and wildlife management work. If the state uses these revenues for something else, the federal government could determine that a diversion of state licensure dollars had occurred. The penalty for this activity is the withholding of Pittman-Robertson and Wallup-Breaux funding. As a consequence, the state has virtually no option to use state derived license revenues for any activities other those related to fish and wildlife management to retain this funding

General License Account

The department's main source of funding is the general license account (GLA). Fees collected for the privilege of hunting and fishing that are not otherwise earmarked are deposited to the GLA. The amount available for appropriation from the GLA is dependent upon license revenues, interest earned, capital appropriations, and the demand for funds within the department. The proposed biennium budget of \$146 million is funded with \$81.1 million of general license dollars. The health of this fund is central to the operation of the department. Figure 1 displays FY 2008 base expenditures per division and Figure 2 displays expenditures by category.

Figure 1

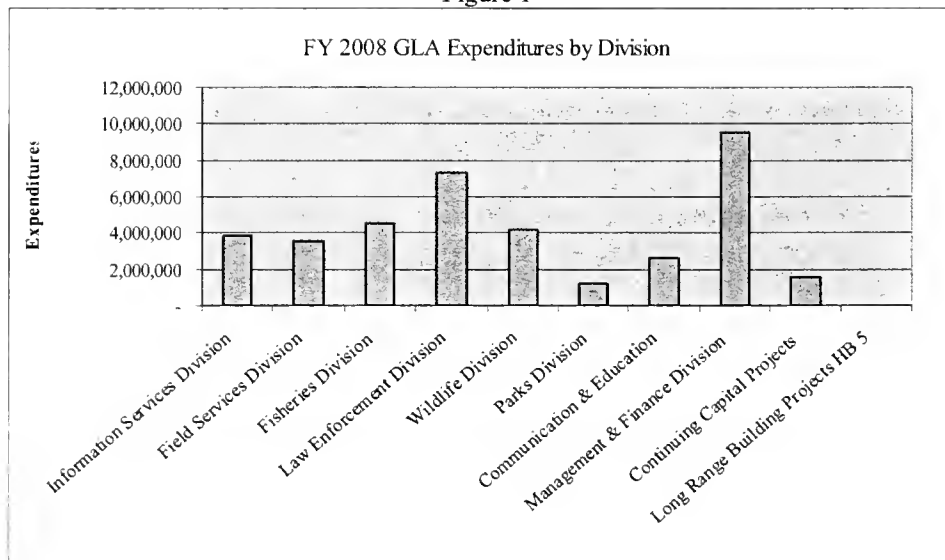
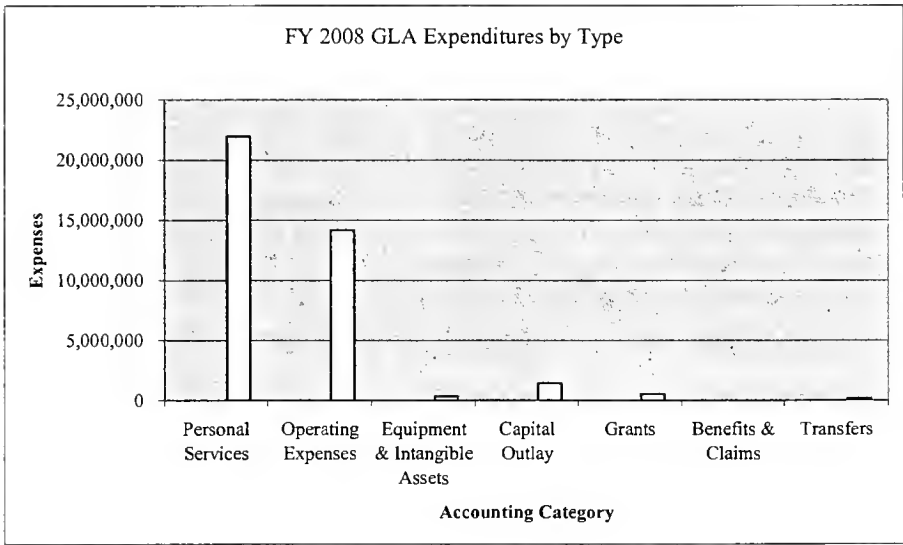


Figure 2



The balance of the general license account

The balance of the general license account determines the availability of funds for continuing operations, present law adjustments and expansions, and new proposals. Figure 3 provides the detail for 2009 and 2011 biennia. The figure provides the comparison between the completed base year, FY 2008, the appropriation for FY 2009, and the budget requested for FY 2010 and FY 2011. Since FY 2008 is the base year for this biennium’s budget, the table allows for comparisons of revenues and expenditures. Entering FY 2008, the general license account had a balance of \$31.3 million, with \$39.6 million in revenues and \$38.4 million expended, leaving an available balance for FY 2009 of \$34.2 million.

Figure 3

FWP General License Account -- Estimate Available Fund Balance

2007 Biennium Executive Budget Request

	Actual Fiscal 2008	Appropriated Fiscal 2009	Executive Request	
			Fiscal 2010	Fiscal 2011
Beginning Balance	\$31,326,760	\$34,215,175	\$29,648,660	\$24,742,469
License Revenue	31,464,867	32,777,244	32,777,244	33,163,844
Other Revenue	8,211,404	6,547,137	6,494,608	6,323,079
Total Funds Available	71,003,031	73,539,556	68,920,512	64,229,392
Disbursements				
Program Expenditures	36,848,164	39,234,359	39,611,968	39,624,363
Continuing Capital Costs	1,531,673	4,503,074	3,000,000	0
LRB Projects	24,674	153,463	0	0
Carry Forward Appropriations	0	0	0	0
Proposed Executive Pay Plan	0	0	629,114	1,258,228
Budget Proposals (PL & NP)	0	0	936,961	1,007,849
Total Disbursements	38,404,511	43,890,896	44,178,043	41,890,440
Adjustments (Prior Year Revenue)	1,616,655	0	0	0
Available Ending Balance	\$34,215,175	\$29,648,660	\$24,742,469	\$22,338,952

The projected balance of the general license account at the end of the 2011 biennium is \$22.3 million based upon the budget request, outstanding capital authority, and a pay plan identical to HB 13 of the 2007 Legislature. The department considers a \$5.0 million fund balance a critical point for cash flow and to potentially adjust fee levels to assure adequate financing for department programs. The projected fund balance illustrates that cash is readily available and fee increases are not necessary at this time.

The executive proposed biennial budget would increase funding from the general license account by \$10.1 million. This is a combination of \$6.3 million in statewide present law adjustments, \$1.8 million in agency present law adjustments, \$1.8 for estimated pay plan impact, and \$0.2 in new proposals.

Structural balance

Figure 4 provides a comparison of revenues and expenditures since FY 2000. The department managed a period of four years between FY 2005 and FY 2008 where revenues exceeded expenditures, resulting in an increasing ending fund balance. For FY 2010 and FY 2011, the executive is proposing to expend more than projected revenues causing a decrease to the ending fund balance.

To ensure the fund remains structurally balanced, the legislature may wish to consider the impact on the fund balance and the ability to continue financing on-going operations as appropriation decisions are made. The program narrative identifies proposals dependent upon general license funds.

Figure 4 Fish, Wildlife and Parks General License Account Revenues and Disbursements				
Fiscal Year	Revenues	Disbursements	Difference	Cummulative
*2011	\$39,486,923	\$41,060,033	(\$1,573,110)	(\$4,205,136)
*2010	39,271,852	43,818,870	(4,547,018)	(2,632,026)
*2009	39,324,381	43,890,896	(4,566,515)	1,914,992
2008	39,676,271	38,404,511	1,271,760	6,481,507
2007	36,060,086	31,197,497	4,862,589	5,209,747
2006	32,214,305	32,011,336	202,969	347,158
2005	30,399,416	30,149,840	249,576	144,189
2004	28,437,936	28,905,675	(467,739)	(105,387)
2003	29,244,690	26,742,906	2,501,784	362,352
2002	25,551,068	26,610,399	(1,059,331)	(2,139,432)
2001	24,995,088	25,496,596	(501,508)	(1,080,101)
2000	24,682,872	25,261,465	(578,593)	(578,593)

*Based upon appropriations and executive request

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations Department of Fish, Wildlife and Parks					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i>Direct Bearing on Agency Operations</i>					
6.5 percent lodging facilities tax for parks maintenance	15-65-121	SSR	\$801,920	\$884,749	\$888,549

In addition to the \$9.1 million of funding in HB 2, this funding raises the total budget of the Parks Division to approximately \$10.0 million.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	64,846,349	64,846,349	129,692,698	88.75%
Statewide PL Adjustments	0	0	0	0.00%	5,092,573	5,170,829	10,263,402	7.02%
Other PL Adjustments	0	0	0	0.00%	2,067,131	2,182,868	4,249,999	2.91%
New Proposals	500,000	500,000	1,000,000	100.00%	968,832	965,407	1,934,239	1.32%
Total Budget	\$500,000	\$500,000	\$1,000,000		\$72,974,885	\$73,165,453	\$146,140,338	

Agency Issues

Public Availability of Access

The proposed executive budget requests that the legislature increase funding for the Hunter Access Enhancement program (otherwise known as block management) and the private land fishing program. Both of the programs provide access to hunters and anglers that may not otherwise be available. The landowner is provided monetary, licensure, or other benefits in exchange for access. Oversight for the programs is provided by the Private Lands\Public Wildlife (PL\PW) council

The term access infers that the public has the right to get to a certain piece of land to use in accordance with the terms negotiated between the landowner and the department. However, to get to a certain piece of land, the hunter or angler needs to know that the access exists. The department’s web site does not contain descriptions of available areas, maps, guidance, and the like. Instead, the public needs to contact the regional offices to obtain information regarding the current year’s block management opportunities.

Option:

Since public funds pay for the access, the legislature may wish to consider establishing policy regarding informing the public of access opportunities through the block management program and the private lands fishing access program. This could be accomplished by:

- Requiring general descriptions of block management or private land fishing program opportunities by region on the department’s website with instructions for obtaining directions, maps and access
- Directing the department to work with the Private Lands\Public Wildlife (PL\PW) council to improve access to block management and private information with an emphasis on electronic media

General Fund Request

The executive proposed budget contains general fund to provide match for the state wildlife grant (SWG) programs within the Fisheries and Wildlife Divisions. State wildlife grants are provided by the US Fish and Wildlife Service to develop and implement programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. This funding can be used for purchasing land or conservation easements. Each state with a Comprehensive Wildlife Conservation Plan (the plan) is eligible to receive a grant based upon a land mass/population formula. There are also competitive grants that the state may apply for. The SWG grant requires a 1:1 match. The executive is requesting \$500,000 one-time only general fund each year of the biennium to assist the Fisheries and Wildlife Divisions in meeting match requirements. A similar one-time only request was approved by the 2007 Legislature that resulted in \$450,326 of general fund expenditures in FY 2008.

The SWG program was reviewed as part of the Legislative Finance Committee’s performance initiative. The department was able to provide information regarding the activities completed with state wildlife grants, such as riparian restoration activities in the Big Hole, prairie dog, reptile and bat surveys as well as conservation planning efforts. The department was unable to provide information regarding population improvement for the species of concern. The workgroup of the Legislative Finance Committee suggested that the appropriation sub-committee review this program as part of the budget deliberations process.

As part of the deliberations, the legislature may wish to: 1) discuss goals and measureable objectives that would articulate and then track the success of the program and 2) consider restricting the appropriation. The executive request limits the general fund authority to the biennium, but does not restrict the authority to just the SWG program. Without this restriction, the agency could move the authority to another program for another purpose and not violate state law. If the legislature wants to assure that this funding is used for the SWG program, the legislature should consider restricting the appropriation for that purpose.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	35.00	35.00	39.50	39.50	35.00	39.50	4.50	12.86%
Personal Services	2,254,989	2,405,825	2,683,861	2,693,055	4,660,814	5,376,916	716,102	15.36%
Operating Expenses	1,694,064	1,804,930	1,941,988	1,938,725	3,498,994	3,880,713	381,719	10.91%
Equipment & Intangible Assets	28,172	24,500	53,172	53,172	52,672	106,344	53,672	101.90%
Grants	69,389	69,389	69,389	69,389	138,778	138,778	0	0.00%
Total Costs	\$4,046,614	\$4,304,644	\$4,748,410	\$4,754,341	\$8,351,258	\$9,502,751	\$1,151,493	13.79%
State Special	3,922,115	4,145,092	4,617,280	4,622,253	8,067,207	9,239,533	1,172,326	14.53%
Federal Special	124,499	159,552	131,130	132,088	284,051	263,218	(20,833)	(7.33%)
Total Funds	\$4,046,614	\$4,304,644	\$4,748,410	\$4,754,341	\$8,351,258	\$9,502,751	\$1,151,493	13.79%

Program Description

Information Services provides information technology and information management services to the entire department including, network creation and administration, hardware and off-the-shelf software procurement and configuration, support of automated license sales and drawings, intranet and internet communications, software development, deployment and support, and all database management.

Program Highlights

Information Services Division Major Program Highlights	
♦	The biennial budget would increase by 13 percent if the executive proposal is adopted due to statewide adjustments and core technology replacement
♦	The statewide present law adjustments account for 93 percent of the budget increase.
♦	The executive seeks to convert contract services to employees and modified FTE to permanent FTE
Major LFD Issues	
♦	The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Develop, recruit and retain a productive information service workforce
 - Create a progression model within each information services job code during the 2009 biennium
 - Create additional strategies by January 1, 2009 design to recruit and retain quality staff
 - Identify all skill-set deficiencies, and develop a training plan and schedule that will allow cross training and individual development
 - Provide for research and development efforts to remain abreast of emerging technologies that might best serve FWP programs and customers

Success: The department reported significant progress on each objective, except the last one. The division did provide pay adjustments within the progression models developed. At the last performance measurement report, the division was unable to state whether the pay adjustments made any difference in retaining qualified staff.

**LFD
COMMENT**

The legislature may wish to receive an update on this goal to ensure that retention efforts are working.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Enhance security and continuity of operations across all mission critical areas
- Develop standard approaches to field data collection analysis, data storage, data dissemination and reporting.

**LFD
ISSUE**

Strategic priorities submitted

The department provided two strategic priorities as program goals. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to six goals of the Information Services Division. The legislature may wish to discuss with the agency submit appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Information Services Division							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000	Total State Special Funds	\$ 3,922,115	96.9%	\$ 4,617,280	97.2%	\$ 4,622,253	97.2%
	02409 General License	3,901,115	96.4%	4,596,292	96.8%	4,601,266	96.8%
	02411 State Parks Miscellaneous	21,000	0.5%	20,988	0.4%	20,987	0.4%
03000	Total Federal Special Funds	124,499	3.1%	131,130	2.8%	132,088	2.8%
	03097 Fedl Fish(W/B) Wildlife(P/R)	10,220	0.3%	10,214	0.2%	10,214	0.2%
	03403 Misc. Federal Funds	114,279	2.8%	120,916	2.5%	121,874	2.6%
Grand	Total	\$ 4,046,614	100.0%	\$ 4,748,410	100.0%	\$ 4,754,341	100.0%

The division receives 97 percent of its funding from the general license account. The remaining funding is from federal grants to provide additional support to the licensing system.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	4,046,614	4,046,614	8,093,228	85.17%
Statewide PL Adjustments	0	0	0	0.00%	648,096	657,727	1,305,823	13.74%
Other PL Adjustments	0	0	0	0.00%	53,700	50,000	103,700	1.09%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$4,748,410	\$4,754,341	\$9,502,751	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					262,702					272,167
Vacancy Savings					(100,707)					(101,088)
Inflation/Deflation					5,337					5,884
Fixed Costs					480,764					480,764
Total Statewide Present Law Adjustments					\$648,096					\$657,727
DP 101 - Information Services, Contracted Services to FTE										
3.00	0	0	0	0	3.00	0	0	0	0	0
DP 102 - Information Services, Modified FTE										
1.50	0	0	0	0	1.50	0	0	0	0	0
DP 103 - Core Technology Replacement										
0.00	0	53,700	0	53,700	0.00	0	50,000	0	50,000	0
Total Other Present Law Adjustments										
4.50	\$0	\$53,700	\$0	\$53,700	4.50	\$0	\$50,000	\$0	\$50,000	\$0
Grand Total All Present Law Adjustments					\$701,796					\$707,727

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - The Information Services Division has an entry target market of 80 percent with exceptions provided at times to allow for recruitments. The current market rate in relation to the 2008 market survey is 92 percent
- o **Vacancy** -
 - The division continues to have difficulty recruiting and retaining a web master. Stability in other staffing areas has improved
 - The division has addressed difficult positions through strategic lump sum payments, pay exceptions and flexible hours
- o **Legislatively applied vacancy savings** - The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate. The division achieved some of the saving due to the need to post positions multiple times prior to achieving a qualified applicant pool

o **Pay Changes -**

- Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with excess vacancy savings and the 0.6 percent discretionary pay appropriation
- Seventy percent of the division's workforce received adjustments outside HB 13. The majority of the adjustments were provided for achieving milestones within established progression models. The average adjustment amount was 6 percent
- Thirty percent of the division's workforce received only the statutory pay increase provided for in HB 13

o **Retirements -** The division anticipates 4 employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$94,422 in unfunded compensated absence liability

DP 101 - Information Services, Contracted Services to FTE - The executive would redirect operations authority currently utilized for contracted services to personal services in order to establish 3.00 FTE. During the base year the division utilized contracted staff for day-to-day development and support work. This request would convert contract services into permanent FTE.

**LFD
COMMENT**

This decision package will reduce general operations funding within the division by \$183,516 each year of the biennium and increase personal services by a like amount. The reduction in operations is not specifically applied to contracted services.

DP 102 - Information Services, Modified FTE - This decision package requests conversion of 1.50 modified FTE to permanent FTE.

**LFD
COMMENT**

The Governor's budget office approved the modified FTE during the interim. The authority was transferred from the Management and Finance Division to the Information Services Division's base budget. Therefore authority is available, but the FTE do not have continuing status.

DP 103 - Core Technology Replacement - The executive is requesting authority to replace aging core information technology infrastructure in FWP facilities. This would expand state network use and services to three area offices located in Dillon, Thompson Falls, and Conrad.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	46.05	46.05	46.05	46.05	46.05	46.05	0.00	0.00%
Personal Services	2,194,034	2,419,894	2,450,182	2,460,664	4,613,928	4,910,846	296,918	6.44%
Operating Expenses	7,356,717	7,429,483	8,390,429	8,457,121	14,786,200	16,847,550	2,061,350	13.94%
Equipment & Intangible Assets	35,476	6,458	35,476	35,476	41,934	70,952	29,018	69.20%
Grants	30,682	30,681	30,682	30,682	61,363	61,364	1	0.00%
Benefits & Claims	4,850	6,188	4,850	4,850	11,038	9,700	(1,338)	(12.12%)
Total Costs	\$9,621,759	\$9,892,704	\$10,911,619	\$10,988,793	\$19,514,463	\$21,900,412	\$2,385,949	12.23%
State Special	9,159,392	9,413,644	10,419,504	10,485,062	18,573,036	20,904,566	2,331,530	12.55%
Federal Special	462,367	479,060	492,115	503,731	941,427	995,846	54,419	5.78%
Total Funds	\$9,621,759	\$9,892,704	\$10,911,619	\$10,988,793	\$19,514,463	\$21,900,412	\$2,385,949	12.23%

Program Description

The Field Services Division provides services in five areas.

- o The Landowner Sportsman Relations Unit and Block Management Program: 1) establishes and maintains communications with users, resource-based organizations, and individuals; 2) administers the Livestock Loss Reimbursement Program; and 3) administers the Block Management Program, which provides recreational access on private property
- o The Game Damage Program provides assistance to landowners in minimizing impacts of game animals to property and crops
- o The Design and Construction Bureau provides architectural and engineering services for construction and maintenance projects at state parks, state fishing access sites, and wildlife management areas
- o The Aircraft Unit provides aerial mountain lake surveys and fish planting, wildlife surveys, wildlife capture and marking, and transportation for the department
- o The Land Unit is responsible for the real estate functions of the department, including the preparation of conservation easement terms and amendments, acquisition and disposal of real estate and real property, and management of all permanent land records

Program Highlights

Field Services Program Major Budget Highlights	
♦	The biennial budget would increase by 12 percent if the executive proposal was adopted due to base adjustments for the block management program
♦	The executive is seeking a \$1.7 million increase in the block management program
♦	An increase in aircraft rates is requested to cover the cost of operating department aircraft
Major LFD Issues	
♦	The intent of the block management program may not be being met
♦	The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goals to monitor during the 2009 interim:

- Work with private landowners to ensure delivery of the habitat conservation benefits and associated public recreational opportunities acquired through FWP conservation easements
 - Monitor all conservation easements annually, completing field monitoring no later than October 15 of each year
 - Review easement monitoring reports with appropriate division staff (Wildlife, Fish or Parks), and send the reports and cover letters to all landowners no later than December 15 of each year

Comment: The department was unable to hire a land steward until FY 2009. This placed the project behind schedule and the original objectives provided to the 2007 Legislature were renegotiated with the workgroup of the Legislative Finance Committee. The legislature may wish to inquire where the program is in relation to the renegotiated objectives.

- Build and maintain a good working relationship among Montana's landowners, hunters and FWP staff
 - To annually provide at least 400,000 hunter days on at least 8.5 million acres of land enrolled in block management
 - Complete the administrative process for all reimbursement claims on livestock loss within 30 days of receiving the claim
 - Respond to all game damage complaints within 48 hours and document response and outcomes within 30 days of the complaint being made

LFD COMMENT

The department reported statistics for the 2006 hunting season (FY 2007) of 439,276 hunter days on 8.3 million acres enrolled in block management. Reimbursement claims and complaints were handled within the above time frames 95 percent of the time. The legislature may wish to receive an update on this goal as FY 2008 and FY 2009 statistics should be available and a significant request is being made to expand the hunter access management program.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Maintain or enhance FWP's Access programs to ensure access on private and public lands.

LFD ISSUE

Strategic priorities submitted

The department provided a strategic priority as the program goal. This priority is not aligned with any specific goal of the program. The 2008 Strategic Plan relate this priority to six goals of access under the Wildlife Division. This strategy does not demonstrate what the department intends to achieve with one or more of the multiple access programs managed by the division. The reader has no indication if the department seeks to measure success in resident participation in access programs or by acres of access or by some other measurement. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Field Services Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 9,159,392	95.2%	\$ 10,419,504	95.5%	\$ 10,485,062	95.4%
02334 Market Based Combo Sales	5,497,696	57.1%	6,596,653	60.5%	6,609,951	60.2%
02408 Coal Tax Trust Account	36,790	0.4%	36,760	0.3%	36,757	0.3%
02409 General License	3,559,821	37.0%	3,713,107	34.0%	3,762,760	34.2%
02469 Habitat Trust Interest	65,085	0.7%	72,984	0.7%	75,594	0.7%
03000 Total Federal Special Funds	462,367	4.8%	492,115	4.5%	503,731	4.6%
03097 Fedl Fish(W/B) Wildlife(P/R)	462,367	4.8%	492,115	4.5%	503,731	4.6%
Grand Total	\$ 9,621,759	100.0%	\$ 10,911,619	100.0%	\$ 10,988,793	100.0%

The Field Services Division's primary funding sources are portions of the variable-rate hunting licenses and the general license account. These sources provide funding for the hunting access enhancement and hunter management program within the block management program. Lesser amounts come from the Coal Tax Trust interest and Wildlife Habitat Trust interests. Federal funding consists of Pitman-Robertson funds derived from excise taxes on sporting fire arms and ammunition. This funding requires a minimum match of 25 percent that is provided by license revenues.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	9,621,759	9,621,759	19,243,518	87.87%
Statewide PL Adjustments	0	0	0	0.00%	315,570	333,247	648,817	2.96%
Other PL Adjustments	0	0	0	0.00%	974,290	1,033,787	2,008,077	9.17%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$10,911,619	\$10,988,793	\$21,900,412	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2010					Fiscal 2011				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				358,238					369,159
Vacancy Savings				(102,090)					(102,529)
Inflation/Deflation				71,428					78,623
Fixed Costs				(12,006)					(12,006)
Total Statewide Present Law Adjustments				\$315,570					\$333,247
DP 201 - Block Management									
0.00	0	850,000	0	850,000	0.00	0	850,000	0	850,000
DP 202 - Taxes and Leases									
0.00	0	75,126	19,865	94,991	0.00	0	118,342	30,949	149,291
DP 203 - Game Damage Herders									
0.00	0	23,000	0	23,000	0.00	0	23,000	0	23,000
DP 204 - Aircraft Rate Adjustment									
0.00	0	6,299	0	6,299	0.00	0	11,496	0	11,496
Total Other Present Law Adjustments									
0.00	\$0	\$954,425	\$19,865	\$974,290	0.00	\$0	\$1,002,838	\$30,949	\$1,033,787
Grand Total All Present Law Adjustments				\$1,289,860					\$1,367,034

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The current market rate in relation to the 2008 market survey is 92 percent; this is down from 101 percent of the 2006 market survey
- **Vacancy** - The division did not report any issue associated with long term or frequent vacancies
- **Legislatively applied vacancy savings** - The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate. Eliminating the impact of vacancy savings, the division under spent its personal services authority by 1.7 percent
- **Pay Changes** -
 - All pay changes were completed with excess vacancy savings and the 0.6 percent discretionary funding from HB 13. Funds were not transferred from other budgeted expenditure categories
 - Pay increases averaging 6.9 percent were provided to employees for achieving milestones within established pay progression models
 - One strategic pay increase was provided for retention purposes
- **Retirements** - The division anticipates 6 employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$78,176 in unfunded compensated absence liability

DP 201 - Block Management - The executive is requesting increased base spending authority for the hunting access enhancement program of \$850,000 in each of FY10 and FY11. This would be funded with state special revenue from the outfitter-sponsored non-resident big game combination license (B-10) and non-resident deer combination licenses (B-11). These licenses are set at a market rate intended to sell as close to but not more than an average of 5,500 B-10 licenses and 2,300 B-11 licenses each year, calculated over a 5 year period. As demand for the licenses increase so has the cost per license creating additional revenues for this program.

**LFD
ISSUE**

Is the intent of block management being met?

The department has three programs for access: Block Management for private lands access, Access Montana for public land access, and Special Access to address regional, species specific issues. For each program landowners are provided benefits for participation, including cash payments, assistance with hunter management, free licenses, and others. In addition, all programs have been funded through variable priced licensing as managed by the FWP Commission. The Private Lands/Public Wildlife (PL/PW) Council has statutory oversight of the access programs.

The block-management was significantly expanded in 1995 with the passage and approval of HB 195. The legislature stated, in the language of the bill, its intent for the program including:

- Optimizing hunting opportunity
- Minimizing administrative costs
- Providing benefits to participating landowners

While partial achievement has been made, particularly with landowner benefits, it is not easy to determine if optimal opportunity with minimal administrative costs has been achieved, as the terms were not clearly defined. This is evidenced by program statistics that demonstrate changes in the characteristics of the block management program, including:

- Average cost of an acre of access
 - FY 2004 - \$5.5 million was spent to secure 8.8 million acres at a cost of \$0.64 per acre
 - FY 2006 - \$5.6 million was spent to secure 8.5 million acres at a cost of \$0.66 per acre
 - FY 2008 - \$6.3 million was spent to secure 8.1 million acres at a cost of \$0.78 per acre
- Ratio of landowner payments to total costs
 - FY 2004 - \$3.6 million was paid out to landowners or 72 percent of total expenditures
 - FY 2006 - \$3.6 million was paid out to landowners or 64 percent of total expenditures
 - FY 2008 - \$3.9 million was paid out to landowners or 50 percent of the total expenditures
- Historical change in the number and ownership of access acres
 - FY 2004 - 7.1 million acres of private land were enrolled
 - FY 2006 - 6.9 million acres of private land were enrolled
 - FY 2008 - 6.6 million acres of private land were enrolled

This data tells a story of a program that has over the past three biennia enrolled fewer acres at a higher cost. This data requires a dialogue regarding the story behind the numbers. The story would answer the questions that the data drives. For example, why is there a 0.5 million acre decline in enrolled private land in the last four years? Why is the cost per acre growing at a 25 percent rate over the past four years? Why is the landowner payment expense declining? Does the data represent minimal program administration expense?

The executive is seeking to increase the base budget of this program for the third biennium in a row. The legislature may wish to have a discussion with the program regarding the status of the program, and to determine what incremental benefits should be derived from adding an additional \$850,000 per year into the program. From this discussion, the legislature may wish to establish measures for the hunting access management program to determine its effectiveness in relationship to the costs expended. This can be done through one or more of the following:

- Request legislation to amend the responsibilities of the Private Lands/Public Wildlife Council to determine appropriate measurement criteria and subsequent reporting requirements
- Request legislation to establish specific measurement criteria, reporting, and interim review responsibility in statute
- Request a resolution to direct an interim committee to establish measurement criteria, and subsequent reporting

**LFD
ISSUE**

Revenues are not dedicated in statute –

Although the intention is clear that the revenues of the variable priced B-10 and B-11 licenses were to support the hunting access programs, that intention was not codified. Therefore, the legislature could choose to fund the program in an alternative manner, or use a portion of proceeds for some other function. The legislature may wish to request legislation to establish in statute the dedication of the revenue derived from the variable priced license to support the hunting access enhancement program.

DP 202 - Taxes and Leases - This proposal would increase budget authority to cover tax liabilities for department lands and continue adjustments based upon the current rate of increase in tax payments for FY 2010 and FY 2011.

Comment: By statute, 87-1-603, MCA, the department does not make tax payments to counties where it owns less than 100 acres or on lands used for game or bird farms, state parks, or fish hatcheries.

DP 203 - Game Damage Herders - The executive is requesting to restore \$23,000 in operations to the game damage program. The program hires local area ranch hands as short term workers under a modified level FTE to herd game animals away from crops and stored hay/grain as a means to mitigate game damage on private property in certain locations.

DP 204 - Aircraft Rate Adjustment - The executive is requesting additional authority for department aircraft rental. Program staff who utilize department aircraft are assessed a fee for the hours flown. All rental revenue generated is used to maintain those aircraft.

Proprietary Program

Aircraft Operation

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year.

FWP Aircraft Operations - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2010 Adjustments	FY2010 Total
62100 Other Services	48,302	13,521	61,823	17,213	65,515
62200 Supplies & Materials	63,043	12,368	75,411	14,196	77,239
62300 Communications	2,327	0	2,327	0	2,327
62400 Travel	1,677	139	1,816	152	1,829
62500 Rent	15,431	0	15,431	0	15,431
62600 Utilities	7,129	217	7,346	234	7,363
62700 Repair & Maintenance	246,128	0	246,128	0	246,128
62800 Other Expenses	616	0	616	0	616
Total Costs	<u>\$384,653</u>	<u>\$26,245</u>	<u>\$410,898</u>	<u>\$31,795</u>	<u>\$416,448</u>

Proprietary Program Description

The department maintains and operates a fleet of aircraft available to department employees to conduct business. This may include aerial assessments, animal survey work, and employee transportation. Programs are billed on a monthly basis for hours flown during the previous month.

Funding

The FWP aircraft program is funded entire with internal service type proprietary funds. Because proprietary funds are not appropriated, they are not typically included in appropriation tables. Instead, the legislature approves the hourly rates

charged that support the revenues for the program. The hourly rate charge approved in the general appropriations act is the maximum charge that may be charged during the biennium.

All programs who utilized department aircraft have a present law adjustment in the proposed budgets to account for the proposed hourly rate. If the rate approved by the legislature is different than the rate proposed, program budgets will need to be adjusted accordingly to maintain alignment with decisions made for this program.

Program Narrative

The revenues for this program are based on the amount of hours flown. In FY 2008, 1,100 miles were flown in department aircraft. Revenues to the fund are dependent upon aircraft utilization.

The expenditures from the fund are the operational costs associated with aircraft flight, except for the personal service costs of the pilots. The largest cost is aircraft maintenance, followed by insurance and fuel. Inflation for fuel for FY 2010 and FY 2011 are 19.87 percent and 22.7 percent respectively. This is the same inflation factors used in the executive budget.

2011 Biennium Report on Internal Services Funds				
Aircraft Operations				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$79,307	(\$52,123)	(\$30,951)	\$46,322
Operating Expenses	412,573	345,780	363,069	381,222
Operating Revenues				
Revenue from Fees	300,774	366,952	440,342	528,411
Other Revenues	0	0	0	0
Total Operating Revenues	300,774	366,952	440,342	528,411
Operating Gain (Loss)	(111,799)	21,172	77,273	147,189
Transfers In (Out)	(19,631)			
Ending Working Capital Balance	(\$52,123)	(\$30,951)	\$46,322	\$193,511

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "State wide Present Law" adjustments are standard categories of adjustments made to all agencies.

The statewide present law adjustment represents inflationary adjustment for insurance and fuel.

FWP Aircraft Operations - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjustments	0.0	\$26,245	0.0	\$31,795

Proprietary Rates

For the 2011 biennium the following rates would be general revenue commensurate with the costs as presented in the executive budget proposal.

FWP Aircraft Operations - Proposed Hourly Rates				
Aircraft	Actual 2008	Actual 2009	Proposed 2010	Proposed 2011
Two place single engine	75.05	90.06	108.07	129.69
Partnavia	357.34	428.80	514.56	617.47
Turbine Helicopters	417.46	480.08	576.10	691.32

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	145.44	145.44	147.19	147.19	145.44	147.19	1.75	1.20%
Personal Services	7,430,128	8,276,048	8,398,945	8,422,322	15,706,176	16,821,267	1,115,091	7.10%
Operating Expenses	4,894,962	4,767,946	5,335,892	5,366,102	9,662,908	10,701,994	1,039,086	10.75%
Equipment & Intangible Assets	336,001	321,397	336,001	336,001	657,398	672,002	14,604	2.22%
Capital Outlay	0	0	55,000	55,000	0	110,000	110,000	n/a
Grants	0	70,000	0	0	70,000	0	(70,000)	(100.00%)
Total Costs	\$12,661,091	\$13,435,391	\$14,125,838	\$14,179,425	\$26,096,482	\$28,305,263	\$2,208,781	8.46%
General Fund	0	0	250,000	250,000	0	500,000	500,000	n/a
State Special	4,855,689	5,084,194	5,412,840	5,435,245	9,939,883	10,848,085	908,202	9.14%
Federal Special	7,805,402	8,351,197	8,462,998	8,494,180	16,156,599	16,957,178	800,579	4.96%
Total Funds	\$12,661,091	\$13,435,391	\$14,125,838	\$14,179,425	\$26,096,482	\$28,305,263	\$2,208,781	8.46%

Program Description

The Fisheries Division is responsible for preserving and perpetuating aquatic species and their ecosystems and for meeting public demand for fishing opportunities and aquatic wildlife stewardship. The division formulates and implements policies and programs that emphasize management for wild fish populations and the protection and restoration of habitat necessary to maintain these populations. The program:

1. Operates a hatchery program to stock lakes and reservoirs where natural reproduction is limited;
2. Regulates angler harvests;
3. Monitors fish populations; and
4. Provides and maintains adequate public access.

Program Highlights

Fisheries Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The biennial budget would increase by 8 percent if the executive proposal was adopted due to statewide present law adjustments ◆ The executive is seeking to fund the aquatic nuisance species program with general license and federal funds since other funding sources are no longer feasible ◆ The executive is seeking one-time only authority of \$0.5 million general fund for the State Fisheries Program 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The executive did not propose a solution to the funding problem at Fort Peck Hatchery ◆ The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success 	

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goals to monitor during the 2009 interim

- Provide a diversity of quality angling opportunities through management of self-sustaining wild fisheries and the responsible use of hatchery reared fish
 - Maintain number of angler days spent fishing in Montana at 2.5 million or greater and number of fishing licenses sold at 400,000 or higher
 - Hatchery system will produce and stock 50 million sport fish annually

LFD COMMENT

The division reported 403,205 licenses in license year 2007 and 2.4 million angler days. The hatchery system stocked 41.9 million sport fish. The division reported a decline in walleye stocking due to a cold spring

- Maintain existing level of public access for fishing and water-based recreation on state water and increase level of public access on selected waters
 - Annually increase number of fishing access sites by an average of two priority sites each year
 - Maintain at least 15 private land access sites through the Fishing Access Enhancement Program

LFD COMMENT

The division acquired eight fishing access sites during FY 2008 and contracted with 6 landowners in the Fishing Access Enhancement Program. The executive is seeking an increase in funding for the Fishing Access Enhancement program to add at least an additional three sites. See DP 302.

- To continue implementation of the Montana Comprehensive Fish and Wildlife Conservation Strategy in order to actively protect and restore species and habitats in need of conservation.
 - Limit the need to list additional species under the endangered species act (ESA) because better biological data would allow active protection and restoration of species and habitat in need of conservation
 - Successfully restore and/or protect aquatic habitats identified in the plan as in need of conservation.
 - Collect basic biological data about lesser know species of concern to determine their distribution, status and habitat needs in order to undertake activities that would preclude the need to list additional species under the ESA.

LFD COMMENT

The division was able to provide information regarding the activities completed with state wildlife grants, but unable to provide information in regard to population improvement. That information will not be available for at least one year after the activities have occurred. The workgroup of the Legislative Finance Committee suggested that the appropriation subcommittee review this program as part of the budget deliberations process. The executive budget contains a request for one-time only general fund to provide the required match to the federal state wildlife grants. See DP 303.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Complete a statewide fish management plan for sport fish, native fish, warm water fish and species of concern and in need of special management
- Resolve funding shortfall and limits on operations at Fort Peck Hatchery

**LFD
ISSUE****Strategic priorities submitted**

The department provided a number of strategic priorities as program goals. The above two serve as a sample. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to two goals of the Fisheries Management Program. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Fisheries Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ 250,000	1.8%	\$ 250,000	1.8%
01100 General Fund	-	-	250,000	1.8%	250,000	1.8%
02000 Total State Special Funds	4,855,689	38.4%	5,412,840	38.3%	5,435,245	38.3%
02051 Private Contracts & Grants	-	-	-	-	-	-
02148 Paddlefish Roe Account	24,939	0.2%	24,939	0.2%	24,939	0.2%
02409 General License	4,429,795	35.0%	4,970,246	35.2%	4,991,018	35.2%
02942 Warm Water Fish Stamp	400,955	3.2%	417,655	3.0%	419,288	3.0%
03000 Total Federal Special Funds	7,805,402	61.6%	8,462,998	59.9%	8,494,180	59.9%
03097 Fedl Fish(W/B) Wildlife(P/R)	5,069,129	40.0%	5,632,072	39.9%	5,656,833	39.9%
03129 Usfws Section 6	-	-	-	-	-	-
03403 Misc. Federal Funds	2,218,043	17.5%	2,313,835	16.4%	2,320,369	16.4%
03408 State Wildlife Grants	518,230	4.1%	517,091	3.7%	516,978	3.6%
Grand Total	\$ 12,661,091	100.0%	\$ 14,125,838	100.0%	\$ 14,179,425	100.0%

The division is funded with 60 percent federal revenues, the largest source of which is the Wallup-Breaux program for sport fish restoration. Excise taxes on fishing rods, reels, creels, lures, flies, and artificial bait provide funding for the program. General license dollars contribute 35 percent of the division's funding and are used for fish restoration and hatchery support. The balance of the funding is from the warm water fish stamp earmarked for the operations of the Fort Peck Hatchery, and the federally funded state wildlife grant program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	12,661,091	12,661,091	25,322,182	89.46%
Statewide PL Adjustments	0	0	0	0.00%	1,013,087	1,057,639	2,070,726	7.32%
Other PL Adjustments	0	0	0	0.00%	35,897	44,888	80,785	0.29%
New Proposals	250,000	250,000	500,000	100.00%	415,763	415,807	831,570	2.94%
Total Budget	\$250,000	\$250,000	\$500,000		\$14,125,838	\$14,179,425	\$28,305,263	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010					Fiscal 2011					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,224,221					1,248,539	
Vacancy Savings				(346,167)					(347,152)	
Inflation/Deflation				154,688					175,907	
Fixed Costs				(19,655)					(19,655)	
Total Statewide Present Law Adjustments				\$1,013,087					\$1,057,639	
DP 302 - Private Lands Fishing Access	0.00	0	25,000	0	25,000	0.00	0	25,000	0	25,000
DP 304 - Aircraft Rate Adjustment	0.00	0	5,666	5,231	10,897	0.00	0	10,342	9,546	19,888
Total Other Present Law Adjustments				\$35,897	0.00	\$0	\$35,342	\$9,546	\$44,888	
Grand Total All Present Law Adjustments				\$1,048,984					\$1,102,527	

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - The Fisheries Division has an entry target market of 80 percent without exceptions. The current market rate in relation to the 2008 market survey is 88 percent
- o **Vacancy** -
 - The division reports difficulties in recruiting fisheries biologists due pay issues
 - The division worked with the Department of Administration to re-evaluate the salary survey to assure equitable comparison to other states. This will result in an increase when the 2008 market was adopted
- o **Legislatively applied vacancy savings** - The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate. The division achieved some of the saving due to the longer than anticipated time to fill open positions
- o **Pay Changes** -
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with excess vacancy savings and the 0.6 percent discretionary pay
 - Upgrades were awarded to approximately 10 conservation aid positions. These positions were upgraded to fish technician in recognition of the appropriate job duties and skills required. The average salary adjustment was 6.6 percent
 - The division administrator, bureau chiefs, regional fish managers, fisheries biologists, and fisheries technicians were awarded pay increases pursuant to professional development/market progression models adopted for each job code. The average salary adjustment was 4.4 percent
- o **Retirements** - The division anticipates 21, or 14 percent of employees, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$490,000 in unfunded compensated absence liability

DP 302 - Private Lands Fishing Access - The executive is requesting an expansion of the Private Land Fishing Access (PLFA) program. This program reimburses landowners for costs associated with allowing public access for fishing. Current funding for this program is \$25,000 per year and this request would increase base funding to \$50,000 per year.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification:

Public demand for fishing access cannot be fully met on public lands. Funding associated with this proposal will be used to improve fishing access on private lands. Additionally, funds would be used to enhance safety along right-of-ways, assure landowner concerns on fencing, and balance private land use with public angling opportunities.

Project Outcome(s):

Increased public access opportunities on private land and reduced conflict between landowners and users.

Performance Criteria:

Success will be measured by evaluating the number of sites obtained or improved, the speed with which projects are implemented, and the time period within which they are completed. The FAS coordinator in the Parks Division will do performance monitoring.

Milestones:

Funds provided will be expended on not less than three sites before the end of FY 2010.

FTE:

The program will be implemented with existing FWP staff. There is no new FTE attached to this funding proposal.

Funding:

The source of the funding for this initiative is the general license account. Depending on the number and locations of sites where improvements may be needed, it is likely that the amount of funding will need to be increased in future fiscal years.

Challenges:

The most significant challenge will be the establishment and execution of projects in a timely, low cost manner.

Risk:

If the proposal is not adopted, the access situation will remain as status quo. As landownership changes in Montana and angler access becomes a more important issue, demand continues to rise.

**LFD
ISSUE****Access should be defined**

This Private Land Fishing Access (PFLA) Program was modeled after the Hunting Access Enhancement Program. The purpose of this program is to give practical, tangible assistance to landowners who allow public access across their lands to fish streams or lakes that otherwise are not accessible. The landowners are paid for access, or are paid for the installation of parking areas, access fences, weed control, or the like based on the level of benefit provided to the fishing community. Benefits, as defined by statute (87-1-301, MCA), may include the number of days of public fishing provided by a participating landowner, fish habitat provided, or access provided to adjacent public lands. The program is funded with general license dollars, but could also be funded with the \$1.00 fishing access fee (87-1-605, MCA) paid with each fishing license.

Statute defines this program as an access enhancement program to benefit the angling community. However, the department, through the above performance criteria, defines success as the number of sites obtained or improved. It does not define success as utilization of the site by Montana anglers. A site can be available even if the angling public does not use it or even know about it. Currently, anglers must know to contact a FWP regional field office to find these opportunities.

**LFD
ISSUE (CONT.)**

The issue in front of the legislature is whether to increase funding to an access program that will measure its success on the increased number of sites, not public use of such sites, particularly as the department indicates costs are likely to grow. The legislature may wish to consider one or more of the following:

- o Require the department to provide performance criteria in terms of site utilization, not site availability, and a plan to report site utilization to the Private Lands/ Public Wildlife Council or the Environmental Quality Council
- o Restrict a portion of the appropriation for public notification of the availability of such sites on the FWP website
- o Establish the appropriation as one-time-only authority and require a report on program outcomes related to site utilization to be provided to the Private Lands/Public Wildlife Council or the Environmental Quality Council
- o Request legislation to modify statute to include electronic public notification of each PFLA opportunity

DP 304 - Aircraft Rate Adjustment - The executive is requesting additional authority for department aircraft rental. Program staff who utilize department aircraft are assessed a fee for the hours flown. All rental revenue generated is used to maintain those aircraft.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 301 - Invasive Species Program										
03	1.75	0	71,278	94,485	165,763	1.75	0	71,297	94,510	165,807
DP 303 - State Wildlife Grants, Fisheries - Bien/OTO										
03	0.00	250,000	0	0	250,000	0.00	250,000	0	0	250,000
Total	1.75	\$250,000	\$71,278	\$94,485	\$415,763	1.75	\$250,000	\$71,297	\$94,510	\$415,807

DP 301 - Invasive Species Program - The executive is requesting 1.75 FTE and relate authority to continue the Aquatic Nuisance Species Program (ANS) and the Weed Management Program. The current funding from the U.S Fish and Wildlife Service is declining and the Pacific State Marine Fisheries Commission funding is scheduled to end in FY 2009. The request is to replace the expiring funding with general license dollars (43 percent) and federal Pittman Robertson funds (57 percent).

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification:

This proposal implements FWP's responsibilities under the Governor's Weed/Invasive Species initiative and will make permanent FWP's current Aquatic Nuisance Species Program and expand the Weed Management Program.

Weed Management Program: The spread of weeds poses a potentially serious threat to agricultural, industrial, and recreational interests in Montana. FWP leases or owns over 327 fishing access sites that are typically adjacent to agricultural lands. The program provides weed management on these properties and educates recreational users to prevent the spread of weeds. The Weed Program works with department land managers and private landowners to control and reduce the spread of weeds. This request will provide an additional \$40,000 annually to the support the program.

Aquatic Nuisance Species (ANS) Program: FWP is responsible for managing recreational opportunities for anglers and for protecting the aquatic resources and ecosystems in Montana. The current ANS program is funded with a grant from the US Fish and Wildlife Service and additional financial support from the Pacific States Marine Fisheries Commission

(PSMFC). The ANS Program is responsible for all public outreach, monitoring, and detecting of ANS in waters of the State of Montana; determining and implementing appropriate responses to ANS introductions; and coordinating with other intrastate, interstate, and national nuisance and invasive species efforts.

The USFWS funding has declined from \$75,000 in FY 2003 to \$43,000 in FY 2008, and is expected to continue to decline. PSMFC funding will end in FY 2009. By FY 2010, there will be insufficient funding to support the existing FTE needed for this program. This request will provide new base funding to support 1.75 FTE currently allocated to the ANS Program as modified FTE and provide operations to support the program.

Project Outcome(s)

Weed Management Program:

- Reduce the spread of weeds from FWP Fishing Access Sites
- Protect the integrity of fishing access sites and surrounding lands for the long-term enjoyment of anglers
- Protect adjacent landowners from weed encroachment
- Coordinate with other agencies to be proactive in preventing the spread of noxious weeds

Aquatic Nuisance Species (ANS) Program:

- Educate anglers about the spread of nuisance species. Public outreach will include: signs at all river, lake, and reservoir access sites; booths at outdoor shows; interacting one-on-one with anglers and boaters at access sites; several public presentations at special interest group meetings, universities, lake home owner associations and others; and brochures at all Fish, Wildlife and Parks offices and traveler information systems
- Coordinate with other states and agencies in an effort to be proactive in preventing and/or managing aquatic nuisance species while providing maximum recreational opportunities for angling in Montana
- Protect the aquatic resources of Montana from the introduction ANS and, if established, reduce the further spread of these organisms
- Continue the boat inspection program that was established in 2004
- Provide Hazard Analysis and Critical Control Point (HAACP) training for department personnel and other agencies.
- Continue sampling for the presence of ANS and monitoring established population as needed
- Provide ANS inspection and certification of state and private hatcheries
- Evaluate fish and egg transfers and import requests for ANS risks
- Maintain FWP's ANS website.

Performance Criteria:

Weed Management Program: Photographs and GIS mapping will document before and after weed treatment and show progress and needed follow-up measures. A 5 percent reduction of infested lands per year is sought.

Aquatic Nuisance Species (ANS) Program: Performance criteria will include numbers of angler/boater contacts made, sampling/monitoring inspections, and of presentations given on ANS-related subjects. Measurable objectives will include the production of ANS-related education materials and presentations given, meeting annual reporting requirements, and the level of prevention and spread of ANS species in Montana.

Milestones

Weed Management Program: Weed assessments will occur from May through September annually.

Aquatic Nuisance Species (ANS) Program: The 0.75 FTE will be hired in time to begin fieldwork commencing in the summer of 2009. Presentations, production of education/outreach materials, reporting, and program coordination are ongoing. Field monitoring and sampling, sample processing, and hatchery inspections and certification occur from May through September.

FTE

Weed Management Program: The weed program is administered by 1.0 FTE in the Helena Field Services Division and will not be supplemented with this request. This request will augment the existing operations budget and allow additional weed control work on fishing access sites and other department-managed lands.

Aquatic Nuisance Species (ANS) Program: The ANS program is currently managed by FTE that has been funded with several budget amendments for the past four years. The same highly qualified person will continue to manage the ANS program and will hire the most experienced seasonal field help available. The manager will coordinate with other states and agencies and will supervise statewide field sampling, monitoring, and educational programs. Seasonal field technicians will monitor/sample susceptible, suspected, or positive waters; present educational programs; and conduct laboratory analysis of field samples.

Funding

Weed Management Program: Proposed funding is from the FWP general license account (state special revenue). This is the appropriate funding source because the activities focus on weed management primarily at fishing access sites. Weeds pose a potentially serious threat to Montana's FAS resources. It is estimated that it will cost \$80,000 of FWP license funds for the 2013 biennium.

Aquatic Nuisance Species (ANS) Program: Proposed funding is from the FWP general license account (state special revenue) and the federal Wallup-Breaux for sport fish restoration and motorboat recreation. These are appropriate funding sources because the activities focus on anglers and boaters. ANS pose a potentially serious threat to Montana's fisheries. It is estimated that it will cost \$62,594 of FWP license funds and \$189,020 of WB federal funds for the 2013 biennium.

Obstacles

Weed Management Program: Weed contractor effectiveness is one issue being monitored. Most contracts are with county weed coordinators. Counties don't have staff to treat all weeds at the most opportune time. We may need to explore treating weeds with FWP staff.

Aquatic Nuisance Species (ANS) Program: There are no major obstacles to implementing this program. This funding will allow an already established successful program to continue.

Risk

Weed Management Program: Fighting weeds will be a never-ending battle. However, by maximizing our efforts year-in and year-out, we hope to keep weed invasion in check. Without this funding, we risk the spread of noxious weeds on new and existing properties.

Aquatic Nuisance Species (ANS) Program: Continuing the coordination of this program should help prevent or control the spread of nuisance species and protect Montana's riparian and aquatic resources. Without this funding, efforts such as ANS monitoring in the Noxon Reservoir in 2007 that resulted in the discovery of Eurasian water milfoil would not have been detected and the infestation could have become more widespread. Coordination with other Columbia River Basin states on a response plan for zebra or quagga mussels may result in defined roles and responsibilities of each state and region. Without this funding, the ANS program will have to be scaled back or eliminated.

**LFD
ISSUE**

Lack of measureable criteria for ANS

The Weed Management Program is seeking to reduce noxious weeds by 5 percent as measured through aerial and on-the ground surveys.

The Aquatic Nuisance Species Program seeks to measure success by the number of contacts, presentations, and inspections provided. This may be an objective for education if compared against previous years, but it does not address how the agency intends to control any outbreak. The legislature may wish to discuss with the department establishing a goal on either education or eradication of ANS and subsequently provide appropriate objectives.

Responsibility for fishing access site management

The Fisheries Division does not provide the day to day management support of fishing access sites. That management function is provided by the Parks Division. The noxious weed portion of this proposal should be segregated and placed into the budget of the Parks Division.

DP 303 - State Wildlife Grants, Fisheries - Bien/OTO - The executive is requesting \$250,000 general fund each year of the biennium to provide matching funds for the federal State Wildlife Grant Program. The funding would be used to restore and/or protect fish and aquatic habitats as defined in the comprehensive fish and wildlife conservation strategy.

**LFD
COMMENT**

The department was provided general fund for the same purpose for the 2009 biennium. The legislature may wish to restrict this appropriation as match for the federal state wildlife grants program. See the Agency Issues section of this narrative.

Other Issues:*Executive budget does not address funding challenges of the Fort Peck Hatchery*

The Fort Peck Hatchery is a \$22.0 million multi-species hatchery built by the US Army Corp of Engineers between 2002 and 2006 to establish a state-of-the-art multi-species hatchery to raise more fish for Montana waters. In 2006, per agreement with the U.S Fish & Wildlife Service, the management of the hatchery was transferred to the department. Pursuant to 87-3-235, MCA and 87-3-236, MCA the hatchery is to be fully supported by the revenues from the \$5.00 warm water species stamp required to fish waters that receive stocking from the hatchery, unless federal funding becomes available. However, the federal funds have not materialized and the revenues from the warm water fish stamp do not keep pace with the costs of operating the hatchery. The status of the warm water fund is demonstrated in Figure 5. The fees and fund interest provide revenues of approximately \$320,000 per year and the FY 2008 base cost of hatchery operations was \$400,955. At the current expenditure rate, the fund balance will be exhausted sometime in the 2013 biennium, at which time the hatchery must operate only on annual revenues.

The funding supports the hatchery at about half capacity. Those operations include the rearing of walleye fry and fingerlings, northern pike, and Chinook salmon. Once stocking of the fish has occurred, the hatchery sits virtually empty for several months, which it currently must do, given the lack of funding and the restriction on species production. During this idle time, FWP uses other resources to truck trout fingerlings to lakes and ponds in the northeastern part of

Figure 5
Department of Fish, Wildlife and Parks
Warm Water Fish Stamp (02942)

	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Beginning Balance	\$981,464	\$856,124	\$765,515	\$666,317
Expenditures	(442,522)	(416,272)	(417,655)	(419,288)
Revenues	317,182	325,663	318,457	311,262
Ending Fund Balance	<u>\$856,124</u>	<u>\$765,515</u>	<u>\$666,317</u>	<u>\$558,291</u>

the state. This cost could potentially be reduced if the facility could raise trout in the alternate months of warm water fish.

To address capacity and funding issues, the department has been working with the interest groups on both sides of the issue. Cold water fish groups are historically opposed to the use of general license dollars to support the hatchery, while the warm water groups support an increase in the general fishing license to support the hatchery. The division was able to release two options for public comment. They are:

- o Increase the warm water stamp from \$5.00 to \$8.00. This option would not change the management of the hatchery. The stamp fee would continue to be paid by those who fish for warm water species in certain Montana waters. Based on license year 2007 sales, this increase would raise an additional \$183,816 for a total of \$458,000 annually.
- o Increase the general fishing license by \$1.00 to \$2.00 per year. This option would also require a statutory change that would allow other funds to be used at the hatchery and other species to be raised. An advisory council would assist in developing requests for fish production. This would raise \$400,000 to \$600,000 per year and could allow the hatchery to operate at capacity.

The results of the public comment period indicated that the clear majority would support an increase in the general fishing license. However, the policy decisions to be made about hatchery operations and funding are the responsibility of the legislature. The legislature may wish to examine the options provided by the department and consider additional options such as:

- o Establishing production goals for the facility in terms of currently allowed species and cold water species
- o Propose legislation to increase the warm water stamp fee to provide the resources for the department to meet production goals
- o Propose legislation to allow for the use of general license dollars to support the hatchery and align funding between the warm water stamp and the general license account based on production goals
- o Raise the warm water stamp to continue funding the hatchery at current levels past 2012

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	113.43	113.43	113.43	113.43	113.43	113.43	0.00	0.00%
Personal Services	6,547,287	7,074,332	7,297,216	7,327,212	13,621,619	14,624,428	1,002,809	7.36%
Operating Expenses	1,919,610	1,885,977	2,030,018	2,041,972	3,805,587	4,071,990	266,403	7.00%
Equipment & Intangible Assets	96,785	82,664	96,785	96,785	179,449	193,570	14,121	7.87%
Grants	15,600	35,400	15,600	15,600	51,000	31,200	(19,800)	(38.82%)
Total Costs	\$8,579,282	\$9,078,373	\$9,439,619	\$9,481,569	\$17,657,655	\$18,921,188	\$1,263,533	7.16%
State Special	8,215,647	8,643,915	9,082,555	9,124,852	16,859,562	18,207,407	1,347,845	7.99%
Federal Special	363,635	434,458	357,064	356,717	798,093	713,781	(84,312)	(10.56%)
Total Funds	\$8,579,282	\$9,078,373	\$9,439,619	\$9,481,569	\$17,657,655	\$18,921,188	\$1,263,533	7.16%

Program Description

The Law Enforcement Division is responsible for ensuring compliance with laws and regulations pertaining to the protection and preservation of big game animals, fur-bearing animals, fish, game birds, and other protected wildlife species. It also enforces the laws and regulations relative to lands or waters under agency jurisdiction and the authority of the department such as state parks, fishing access sites, and wildlife management areas, as well as those laws and regulations pertaining to, outfitters/guides, boating, snowmobiles and off highway vehicles safety and registration. Other duties include block management patrols, stream access enforcement, commercial wildlife permitting, hunter education, license vendor contacts, game damage response, urban wildlife activities, and assisting other law enforcement agencies as requested.

Program Highlights

Enforcement Division Major Program Highlights
<ul style="list-style-type: none">◆ The biennial budget would increase by 7 percent if the executive proposal was adopted◆ The statewide present law adjustments account for the majority of the increase◆ The executive is seeking to restore overtime pay for the wardens
Major LFD Issues
<ul style="list-style-type: none">◆ The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee (LFC) selected the following goals to monitor during the 2009 interim

- Reduce the number and impact of major wildlife crimes
 - Hire regional investigators and implement the 2007 legislation including the outfitter felony statutes, warden vacancy saving exemption, restitution redirection and duplicate license fraud

- Submit at least 50 major cases for prosecution each year.
- Increase restitution payment by violators to \$200,00 by 2010
- Perform a minimum of 25 sportsman group presentations or TIPMONT trailer displays emphasizing poaching in Montana

Success: The division provided information to demonstrate progress towards the goal was being made. The LFC released this from monitoring in June of 2008

- Reduce damage to state trust land
 - The position descriptions and work plans will establish goals and objectives necessary to enhance enforcement of state land recreational use rules. The Department of Natural Resources and Conservation (DNRC) has entered into a memorandum of understanding with FWP in order to direct the specific duties, priorities, and reporting requirements necessary to establish and maintain accountability for the work performed.

**LFD
COMMENT**

The division provided information to demonstrate progress toward the goal was being made, but did not provide the memorandum of understanding for review. The LFC released this from monitoring in June of 2008.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Increase visibility of enforcement during high use periods
- Reduce illegal use of off highway vehicles and related user conflicts
- Increase public awareness of TIP-MONT as a tool to help reduce vandalism and other violations

**LFD
ISSUE**

Strategic priorities submitted

The department provided eight strategic priorities as program goals. The above three are serving as a sample. These priorities are not aligned with any specific goal of the program. As written the strategies do not provide the reader with an idea of how this work will be done or how success will be determined. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table -Enforcement Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 8,215,647	95.8%	\$ 9,082,555	96.2%	\$ 9,124,852	96.2%
02051 Private Contracts & Grants	-	-	-	-	-	-
02115 Off-Highway Vehicle Fines	79,498	0.9%	53,921	0.6%	54,358	0.6%
02241 Dsl Recreational Use Account	29,688	0.3%	51,292	0.5%	51,280	0.5%
02329 Snowmobile Fuel Tax-Enforcemnt	14,691	0.2%	28,213	0.3%	28,943	0.3%
02334 Market Based Combo Sales	363,666	4.2%	447,738	4.7%	448,879	4.7%
02409 General License	7,324,394	85.4%	8,035,647	85.1%	8,075,196	85.2%
02411 State Parks Miscellaneous	175,915	2.1%	204,972	2.2%	205,680	2.2%
02413 F & G Motorboat Cert Id	62,857	0.7%	74,558	0.8%	74,485	0.8%
02414 Snowmobile Reg	93,622	1.1%	64,657	0.7%	64,518	0.7%
02558 Fas - Vehicle Registration	16,182	0.2%	21,904	0.2%	21,883	0.2%
02938 Tlmd - Administration	55,134	0.6%	99,653	1.1%	99,630	1.1%
03000 Total Federal Special Funds	363,635	4.2%	357,064	3.8%	356,717	3.8%
03403 Misc. Federal Funds	363,635	4.2%	357,064	3.8%	356,717	3.8%
Grand Total	\$ 8,579,282	100.0%	\$ 9,439,619	100.0%	\$ 9,481,569	100.0%

The Enforcement Division is funded primarily with general license dollars. Other state special revenue includes variable priced outfitter sponsored license revenues, fuel taxes, and off highway vehicle and snowmobile registration fees. Federal funds are primarily from the US Coast Guard and require a 25 percent match supplied from the general license account.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	8,579,282	8,579,282	17,158,564	90.68%
Statewide PL Adjustments	0	0	0	0.00%	660,337	702,287	1,362,624	7.20%
Other PL Adjustments	0	0	0	0.00%	200,000	200,000	400,000	2.11%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$9,439,619	\$9,481,569	\$18,921,188	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					607,610					637,858
Vacancy Savings					(57,681)					(57,933)
Inflation/Deflation					127,571					139,525
Fixed Costs					(17,163)					(17,163)
Total Statewide Present Law Adjustments					\$660,337					\$702,287
DP 401 - Warden Overtime	0.00	0	196,000	4,000	200,000	0.00	0	196,000	4,000	200,000
Total Other Present Law Adjustments	0.00	\$0	\$196,000	\$4,000	\$200,000	0.00	\$0	\$196,000	\$4,000	\$200,000
Grand Total All Present Law Adjustments					\$860,337					\$902,287

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The Enforcement Division has an entry target market of 80 percent without exceptions. The current market rate in relation to the 2008 market survey is 86 percent
- **Vacancy** -
 - The game warden classification has had 28 vacancies over the last three years, and still has low recruitment numbers that are directly attributable to pay issues
 - The division is working with the Department of Administration to develop a more accurate market pay for game wardens. There is an on-going labor/management committee focused on long-term pay solutions. The division has instituted strategic pay exceptions and progression models in an attempt to address retention issues
 - Vacant warden districts create serious workload issues for wardens in neighboring districts who must provide coverage in those areas as well as their own
- **Legislatively applied vacancy savings** -
 - By statute the game warden positions are exempt from legislatively applied vacancy savings
 - The non-exempt position vacancy savings was achieved through normal turnover
- **Pay Changes** -
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with the 6.9 percent vacancy savings achieved by the division.
 - Strategic pay adjustments were provided to the wardens resulting in a 4.4 percent increase above the statutory adjustment
 - Managerial positions were awarded pay increases pursuant to professional development/market progression models adopted for each job code. The average salary adjustment was 4.6 percent.
- **Retirements** - The division anticipates 11 employees, 10 percent of the division, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$262,000 in unfunded compensated absence liability

DP 401 - Warden Overtime - The executive requests authority to provide overtime compensation to address staffing needs of the division and meet the terms of the MPEA Fish and Game Warden bargaining agreement.

**LFD
COMMENT**

The division spent \$204,018 in overtime during FY 2008.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	103.56	103.56	105.56	105.56	103.56	105.56	2.00	1.93%
Personal Services	5,379,203	6,257,592	6,341,798	6,365,357	11,636,795	12,707,155	1,070,360	9.20%
Operating Expenses	3,120,839	3,706,658	3,846,320	3,904,672	6,827,497	7,750,992	923,495	13.53%
Equipment & Intangible Assets	46,090	55,290	46,090	46,090	101,380	92,180	(9,200)	(9.07%)
Capital Outlay	166,889	0	166,889	166,889	166,889	333,778	166,889	100.00%
Grants	110,000	110,000	110,000	110,000	220,000	220,000	0	0.00%
Total Costs	\$8,823,021	\$10,129,540	\$10,511,097	\$10,593,008	\$18,952,561	\$21,104,105	\$2,151,544	11.35%
General Fund	0	0	250,000	250,000	0	500,000	500,000	n/a
State Special	4,635,546	5,195,625	5,291,989	5,333,821	9,831,171	10,625,810	794,639	8.08%
Federal Special	4,187,475	4,933,915	4,969,108	5,009,187	9,121,390	9,978,295	856,905	9.39%
Total Funds	\$8,823,021	\$10,129,540	\$10,511,097	\$10,593,008	\$18,952,561	\$21,104,105	\$2,151,544	11.35%

Program Description

The Wildlife Division is responsible for the department's statewide Wildlife Management Program, which enhances the use of Montana's renewable wildlife resources for public benefit. It protects, regulates, and perpetuates wildlife populations with habitat management and regulated harvest. Through promotion of land management practices, wildlife habitat areas are maintained and enhanced. In addition, the program provides wildlife recreational opportunities to the public, including non-game wildlife, and provides public information regarding conservation of wildlife populations and wildlife habitats. The program manages animals legislatively categorized as big game, nongame wildlife, game birds, furbearers, and threatened and endangered species.

Program Highlights

Wildlife Division Major Program Highlights	
♦	The biennial budget would increase by 11 percent if the executive proposal was adopted
♦	The executive is seeking one-time only authority of \$0.5 million general fund and 2.0 FTE for the State Wildlife Program
♦	Base adjustments for the non-game and migratory bird programs are being requested
Major LFD Issues	
♦	The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- To continue implementation of the Montana Comprehensive Fish and Wildlife Conservation Strategy in order to actively protect and restore species and habitats in need of conservation.
 - Limit the need to list additional species under the endangered species act (ESA) because better biological data would allow active protection and restoration of species and habitats in need of conservation
 - Successfully restore and/or protect habitats identified in the plan as in need of conservation
 - Collect basic biological data about lesser known species of concern to determine their distribution, status, and habitat needs in order to undertake activities that would preclude the need to list additional species under the ESA

Challenge: The division was able to provide information regarding the activities completed with state wildlife grants, but unable to provide information in regard to population improvement. That information will not be available for at least one year after the activities have occurred. The workgroup of the Legislative Finance Committee suggested that the appropriation subcommittee review this program as part of the budget deliberations process. The executive budget contains a request for one-time only general fund to provide the required match to the federal state wildlife grants. See DP 501.

- Utilize harvest to manage wildlife populations at levels that balance the biological needs and capabilities of the wildlife species and their habitat with wildlife-related recreation and tolerance of private land owners
 - Begin direct data entry of all phone survey questionnaires following the 2007 hunting season to enable completion of hunter harvest surveys by June of each year.
 - Utilize hunter harvest data, survey and inventory data, and public input to develop biennial hunting regulations in 2008 for commission approval by February 2008
 - Develop biennial trapping regulations by August 2008
 - Facilitate at least 40 public meetings across the state between December 2007 and February 2008 to solicit and discuss hunting regulation recommendations from the public

Success: The division demonstrated achievement of this goal by meeting the measurable objectives.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Develop expertise and knowledge about planning and land use, and provide direction and resources to local governments to ensure wildlife needs are addressed in planning and development. Work with counties, municipalities and communities to influence patterns and methods of rural subdivision in a way that minimizes impacts to wildlife communities.
- Refine harvest management programs to strengthen links between population monitoring parameters, population objectives, social expectations, and hunting season recommendations; focus population management prescriptions on the 5-week general gun season and simplify regulations.

LFD ISSUE

Strategic priorities submitted

The department provided eight strategic priorities as program goals. The above two are serving as a sample. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to 11 goals of the Wildlife Management Division. These strategies are well written goals but lack measurable objectives that would allow for a future determination of success. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Wildlife Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ 250,000	2.4%	\$ 250,000	2.4%
01100 General Fund	-	-	250,000	2.4%	250,000	2.4%
02000 Total State Special Funds	4,635,546	52.5%	5,291,989	50.3%	5,333,821	50.4%
02051 Private Contracts & Grants	-	-	-	-	-	-
02061 Nongame Wildlife Account	38,176	0.4%	63,013	0.6%	62,997	0.6%
02085 Waterfowl Stamp Spec. Rev.	13,150	0.1%	53,094	0.5%	53,088	0.5%
02086 Mountain Sheep Account	72,532	0.8%	122,222	1.2%	122,191	1.2%
02112 Moose Auction	-	-	-	-	-	-
02113 Upland Game Bird Habitat	82,383	0.9%	106,862	1.0%	106,847	1.0%
02176 Mountain Goat Auction	-	-	11,000	0.1%	11,000	0.1%
02409 General License	4,171,018	47.3%	4,644,321	44.2%	4,686,209	44.2%
02469 Habitat Trust Interest	258,287	2.9%	261,477	2.5%	261,489	2.5%
02559 Mule Deer Auction	-	-	-	-	-	-
02560 Elk Auction	-	-	30,000	0.3%	30,000	0.3%
03000 Total Federal Special Funds	4,187,475	47.5%	4,969,108	47.3%	5,009,187	47.3%
03097 Fedl Fish(W/B) Wildlife(P/R)	3,977,011	45.1%	4,415,619	42.0%	4,455,184	42.1%
03129 Usfws Section 6	-	-	-	-	-	-
03403 Misc. Federal Funds	87,439	1.0%	154,015	1.5%	154,581	1.5%
03404 Overhead	-	-	-	-	-	-
03408 State Wildlife Grants	123,025	1.4%	399,474	3.8%	399,422	3.8%
Grand Total	\$ 8,823,021	100.0%	\$ 10,511,097	100.0%	\$ 10,593,008	100.0%

The Wildlife Division is funded with state special revenue consisting primarily of the general license account. Other earmarked fees support the Upland Game Bird Program, and the operations portion of the Wildlife Habitat Program. Federal funding consists of Pittman-Robertson funds that require a 25 percent non-federal match that is typically met with funds from the general license account.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund-----				Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	8,823,021	8,823,021	17,646,042	83.61%
Statewide PL Adjustments	0	0	0	0.00%	944,950	977,236	1,922,186	9.11%
Other PL Adjustments	0	0	0	0.00%	216,151	265,776	481,927	2.28%
New Proposals	250,000	250,000	500,000	100.00%	526,975	526,975	1,053,950	4.99%
Total Budget	\$250,000	\$250,000	\$500,000		\$10,511,097	\$10,593,008	\$21,104,105	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010						Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,139,294					1,163,784
Vacancy Savings					(260,736)					(261,714)
Inflation/Deflation					83,577					92,351
Fixed Costs					(17,185)					(17,185)
Total Statewide Present Law Adjustments					\$944,950					\$977,236
DP 502 - Auction Accounts	0.00	0	91,000	0	91,000	0.00	0	91,000	0	91,000
DP 503 - Nongame Wildlife Funding	0.00	0	25,000	0	25,000	0.00	0	25,000	0	25,000
DP 504 - Migratory Bird Funding	0.00	0	40,000	0	40,000	0.00	0	40,000	0	40,000
DP 505 - Aircraft Rate Adjustment	0.00	0	30,677	29,474	60,151	0.00	0	55,986	53,790	109,776
Total Other Present Law Adjustments	0.00	\$0	\$186,677	\$29,474	\$216,151	0.00	\$0	\$211,986	\$53,790	\$265,776
Grand Total All Present Law Adjustments					\$1,161,101					\$1,243,012

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The Enforcement Division has an entry target market of 80 percent without exceptions. The current market rate in relation to the 2008 market survey is 90 percent
- **Vacancy** -
 - The division does not have any occupations with a high turnover rate.
 - The division is worked with the Department of Administration to develop a more accurate market pay for several positions to more accurately reflect the job duties and responsibilities and ensure an equitable comparison with other states
- **Legislatively applied vacancy savings** - The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate. Eliminating the impact of vacancy savings the division under spent its personal services authority by 8.3 percent
- **Pay Changes** -
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with the excess vacancy savings achieved by the division
 - The division administrator, bureau chiefs, regional wildlife manager, wildlife biologists, wildlife technicians and maintenance employees were awarded pay increases pursuant to professional development/market progression models adopted for each job code. The average salary adjustment was 2.8 percent
- **Retirements** - The division anticipates 23 employees, 22 percent of the division, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$601,000 in unfunded compensated absence liability

DP 502 - Auction Accounts - The executive is requesting a base adjustment to restore authority to expend revenues from the auction of sheep, mountain goat and elk licenses. These funds would be used for animal transplant, herd health assessment, enhanced survey, and inventory efforts.

DP 503 - Nongame Wildlife Funding - The Montana state tax return provides residents with the opportunity to voluntarily donate funds for use in conserving the state's non game wildlife. The executive is seeking an increase in base authority for the nongame program.

**LFD
ISSUE**

Appropriation higher than annual revenues

The funding for this decision package is the non-game wildlife account. This account receives an average of \$42,000 per year from the voluntary check off portion of the state tax return. This request would increase the base expenditure to \$63,000 or \$21,000 higher than annual revenues. The legislature may wish to consider adjusting the appropriation to reflect the annual revenues.

DP 504 - Migratory Bird Funding - The executive is requesting an increase in state special revenue of \$40,000 each year of the biennium for the migratory bird habitat program. The request is funded from revenues from the sale of the migratory game bird license.

**LFD
COMMENT**

The requested increase is 200 percent of base expenditures, due to delays in implementation of contract services during the base year.

DP 505 - Aircraft Rate Adjustment - The executive is requesting additional authority for department aircraft rental. Program staff who utilize department aircraft are assessed a fee for the hours flown. All rental revenue generated is used to maintain those aircraft.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 501 - State Wildlife Grants, Wildlife Bien (GF-OTO)										
05	2.00	250,000	0	276,975	526,975	2.00	250,000	0	276,975	526,975
Total	2.00	\$250,000	\$0	\$276,975	\$526,975	2.00	\$250,000	\$0	\$276,975	\$526,975

DP 501 - State Wildlife Grants, Wildlife Bien (GF-OTO) - The executive is requesting \$250,000 general fund and \$276,975 federal funds each year of the biennium to continue implementation of Montana's Comprehensive Fish and Wildlife Management Strategy. The general fund will provide match to the federal funds. The general fund is being requested for the 2011 biennium only.

**LFD
COMMENT**

The department was provided general fund for the same purpose for the 2009 biennium. The legislature may wish to restrict this appropriation as match for the federal SWG program. See Agency Issues for further discussion.

Other Issues**Brucellosis Action Plan**

The Department of Livestock is requesting a supplemental appropriation for the implementation of the Brucellosis Action Plan (BAP). The plan document details participation by the Department of Fish, Wildlife and Park, including:

- o Providing personnel to haze/assist in hazing of elk in close proximity to cattle feeding/calving areas
- o Providing personnel and game-proof fencing materials for fencing haystacks/feed storage areas/cattle feeding areas
- o Providing personnel or other resources for mitigation efforts to ensure separation between elk and cattle, or elk and cattle feeding/calving areas.

The division does not currently have the budget authority to support this level of activity. The supplemental request is for the Department of Livestock only. The executive does not request additional funding for this purpose in HB 3 or in the executive request.

It is also important to note that even if the Wildlife Division decided to pick up these responsibilities within its current operating budget, the source of the funding would raise issues. The activities requested are designed to protect the cattle from the elk. They do not address improving elk health or elk habitat. For this reason license fees and federal revenues related to license fees are not an appropriate funding source for this activity. The legislature may wish to discuss with FWP how they intend to provide these additional services within its current operating budget.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	110.33	110.33	115.56	115.56	110.33	115.56	5.23	4.74%
Personal Services	4,599,225	5,077,356	5,376,551	5,395,178	9,676,581	10,771,729	1,095,148	11.32%
Operating Expenses	2,661,863	2,698,257	2,964,350	2,971,422	5,360,120	5,935,772	575,652	10.74%
Equipment & Intangible Assets	479,632	160,744	309,652	309,652	640,376	619,304	(21,072)	(3.29%)
Grants	492,317	548,024	445,317	445,317	1,040,341	890,634	(149,707)	(14.39%)
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$8,233,037	\$8,484,381	\$9,095,870	\$9,121,569	\$16,717,418	\$18,217,439	\$1,500,021	8.97%
State Special	8,013,966	8,254,192	8,807,336	8,832,000	16,268,158	17,639,336	1,371,178	8.43%
Federal Special	219,071	230,189	288,534	289,569	449,260	578,103	128,843	28.68%
Total Funds	\$8,233,037	\$8,484,381	\$9,095,870	\$9,121,569	\$16,717,418	\$18,217,439	\$1,500,021	8.97%

Program Description

The Parks Division is responsible for conserving the scenic, historic, archaeological, scientific, and recreational resources of the state, and for providing for their use and enjoyment. The division manages 50 parks, 13 affiliated lands such as rifle ranges and recreation sites managed by local and federal agencies, and 321 fishing access sites. Other programs administered by the division include motorized and non-motorized trail grants and local government recreation grants.

Program Highlights

Parks Division	
Major Program Highlights	
♦	The biennial budget would increase by 9 percent if the executive proposal was adopted
♦	The executive is requesting 5.23 FTE to assist with maintenance and operations in state parks and fishing access sites
♦	The bulk of the remaining increase is due to statewide present law adjustments
Major LFD Issues	
♦	The state park system has not been clearly defined making it difficult to determine the system operates effectively
♦	The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- Maintain state park sites and facilities to fully meet user needs
 - Hire summer seasonal staff to increase and improve maintenance funding at various locations by July 1, 2007

- Continue to monitor visitor comments on maintenance issues and facility and safety concerns year round. Address concerns as soon as possible
- Increase use of community groups, service organizations, volunteers and other means to expand facility and maintenance program effectiveness statewide by 5 percent

Success: The department provided information that indicated that this goal was met. The exception was that volunteer hours could not be determined until the end of 2008. The legislature may wish to inquire on the status of increased volunteer hours in state parks.

- The heritage resource coordinator will provide support to field level staff managing and caring for archaeological, paleontological, historical, and cultural sites in the division. The full time summer (May 1 through Sept. 30) ranger will provide staff at Rosebud Battlefield State Park to maintain facilities, assist visitors, protect resources, work with adjacent landowners, and implement the management plan

Challenge: The heritage coordinator position was hired in September 2007 and has met all performance measures and milestones listed. The ranger at the Rosebud Battlefield State Park did not finish the probationary period. The legislature may wish to inquire on the status of this position.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Improve consistency and quality of development and service in state parks through policy, standards, tracking and reporting.
- Improve pace and effectiveness of capital development processes in department to complete projects in same biennium as started/approved.
- Provide new recreational opportunity by implementing the Access Montana program.
- Refine park security efforts to assure that staff are trained and secure in their work environments and to ensure public safety in state parks. Review park ranger program.

LFD ISSUE

Strategic priorities submitted

The department provided nine strategic priorities as program goals. The above four are serving as a sample. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to seven goals of the Parks Division. To determine the degree of improvement, the reader would need to know the baseline data. Without the baseline data, progress can not be determined. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table							
Parks Division							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000	Total State Special Funds	\$ 8,013,966	97.3%	\$ 8,807,336	96.8%	\$ 8,832,000	96.8%
	02051 Private Contracts & Grants	-	-	-	-	-	-
	02213 Off Highway Vehicle Gas Tax	42,533	0.5%	81,241	0.9%	81,447	0.9%
	02239 Off Hwy Vehicle Acct (Parks)	29,018	0.4%	17,599	0.2%	17,760	0.2%
	02331 Motorboat Certification-Parks	16,939	0.2%	18,704	0.2%	18,781	0.2%
	02332 Snowmobile Registration-Parks	277,840	3.4%	287,293	3.2%	287,767	3.2%
	02333 Fishing Access Site Maint	175,736	2.1%	371,020	4.1%	373,110	4.1%
	02407 Snowmobile Fuel Tax	771,765	9.4%	535,368	5.9%	535,765	5.9%
	02408 Coal Tax Trust Account	1,051,922	12.8%	1,050,991	11.6%	1,055,164	11.6%
	02409 General License	1,214,331	14.7%	1,577,336	17.3%	1,582,819	17.4%
	02411 State Parks Miscellaneous	3,218,511	39.1%	3,693,284	40.6%	3,704,774	40.6%
	02412 Motorboat Fuel Tax	1,041,057	12.6%	1,115,286	12.3%	1,115,399	12.2%
	02558 Fas - Vehicle Registration	174,314	2.1%	59,214	0.7%	59,214	0.6%
03000	Total Federal Special Funds	219,071	2.7%	288,534	3.2%	289,569	3.2%
	03097 Fedl Fish(W/B) Wildlife(P/R)	219,071	2.7%	288,534	3.2%	289,569	3.2%
	03403 Misc. Federal Funds	-	-	-	-	-	-
Grand	Total	\$ 8,233,037	100.0%	\$ 9,095,870	100.0%	\$ 9,121,569	100.0%

The largest revenue source is the \$4.00 registration fee per vehicle charged in lieu of resident day use fees at state park sites, followed by motorboat fuel taxes, parks coal tax trust earnings, the general license account, snowmobile fuel taxes, fishing access maintenance and acquisition fee revenues, snowmobile registration fees, and off-highway vehicle registration fees.

The registration fee is allocated as follows:

- o \$3.50 for park operations and maintenance
- o \$0.25 for fishing access site maintenance
- o \$0.25 for support of Virginia City and Nevada City (these funds are transferred to the Heritage Commission)

The fee provides approximately \$2.8 million per year for the state parks system, \$200,000 for fishing access sites, and \$200,000 for Virginia and Nevada City.

The division receives the following allocations of the gasoline dealer’s license taxes:

- o Nine-tenths of one percent for maintenance of parks with motorboat use
- o One-eighth of one percent for off-highway vehicle safety, repair of off-highway vehicle damage, and facility development
- o Fifteen-twenty-eighths of one percent for snowmobile safety, facility development, enforcement, and control of noxious weeds

Of the coal severance tax revenues, 1.27 percent is deposited into a non-expendable trust, with the interest from the trust allocated for maintenance at state parks and historic sites.

The general license account and earmarked fishing fees are used to maintain fishing access sites.

Federal funding sources include Wallop-Breaux, national recreational trails, the land and water conservation fund, and other miscellaneous federal revenues. These federal funding sources require a match of 20 to 50 percent

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	8,233,037	8,233,037	16,466,074	90.39%
Statewide PL Adjustments	0	0	0	0.00%	634,340	659,872	1,294,212	7.10%
Other PL Adjustments	0	0	0	0.00%	228,493	228,660	457,153	2.51%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$9,095,870	\$9,121,569	\$18,217,439	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					797,658					816,880
Vacancy Savings					(215,875)					(216,637)
Inflation/Deflation					69,569					76,641
Fixed Costs					(17,012)					(17,012)
Total Statewide Present Law Adjustments					\$634,340					\$659,872
DP 601 - Parks Maintenance and Operations Staff										
2.08	0	99,925	0	99,925	2.08	0	99,968	0	99,968	
DP 602 - FAS Management and Maintenance Staff										
3.15	0	99,318	0	99,318	3.15	0	99,442	0	99,442	
DP 604 - FAS Capital O&M from HB 5 to HB 2										
0.00	0	175,000	0	175,000	0.00	0	175,000	0	175,000	
DP 605 - Restore Parks Base Operations										
0.00	0	15,230	29,000	44,230	0.00	0	15,230	29,000	44,230	
DP 606 - Restore FAS Base Operations										
0.00	0	10,000	17,000	27,000	0.00	0	10,000	17,000	27,000	
DP 607 - Parks Snowmobile Equipment - BIEN										
0.00	0	(216,980)	0	(216,980)	0.00	0	(216,980)	0	(216,980)	
Total Other Present Law Adjustments										
5.23	\$0	\$182,493	\$46,000	\$228,493	5.23	\$0	\$182,660	\$46,000	\$228,660	
Grand Total All Present Law Adjustments					\$862,833					\$888,532

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate -**

- The Parks Division has an entry target market of 80 percent. The current market rate in relation to the 2008 market survey is 90 percent
- The division makes a blanket exception from agency policy on tour guides that work at Lewis & Clark Caverns State Park. This is due to park location and lack of housing. Other exceptions are granted on a case-by-case basis in consideration of geographic local, area wages, recruitment pool, and retention concerns

- **Vacancy -**
 - The Parks Division experiences higher turnover in field positions. These include front-line staff such as maintenance workers, park rangers, and park managers. Factors affecting turnover include: 1) work conditions; 2) isolated locations without bunkhouse facilities (i.e. Hell Creek, Tongue River, L&C Caverns); and 3) wages too low in comparison with private sector and other state/federal service. The division has lost employees and candidates to Bureau of Land Management jobs due to higher pay
 - The Parks Division has provided transportation assistance, pay exceptions, and alternating shifts, and has begun to provide housing to staff as a means of improving operations and reducing turnover in such places as at Hell Creek State Park or Tongue Reservoir State Park
 - Vacancies have impacted the ability to provide consistent service to Montanans and their guests, resulting in tasks not being done completely or being prioritized lower
- **Legislatively applied vacancy savings -** The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate
- **Pay Changes -**
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with the excess vacancy savings and the 0.6 percent discretionary pay from HB 13
 - Twenty five adjustments for groundskeepers, tour guides and clerks were made to adjust salaries to the entry market of 80 percent. The average salary adjustment was 3.5 percent
 - Additional pay adjustments were made across the board to improve pay equity and bring employees closer to the 2006 market as allowed under the market progression models. The average salary adjustment was 5.6 percent
- **Retirements -** The division anticipates 23 employee, or 21 percent of the division, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$247,650 in unfunded compensated absence liability

Program Issue

The state park system has not been clearly defined.

As the state parks and fishing access site inventory continues to grow, so does the cost to manage and maintain such a system. The ability to cover these costs is a significant issue as park related revenues, specifically the light vehicle registration fee, have begun to decline. Revenue and expenditures need to be aligned but this will not occur without establishing policy regarding the scope and purpose of the parks system, including fishing access sites.

As in recent sessions, the executive is requesting operational increases for state parks and fishing access sites. (see DP 601 and DP 602). The request represents a 4.8 percent increase in the division's budget and an additional 5.23 FTE. Similar requests were granted by the 2005 and 2007 Legislatures. The Governor is also asking for an additional \$2.0 million general fund for further parks acquisition.

The state park system began in 1929 when the Board of Land Commissions was first authorized set aside lands for parks. In 1936, the board accepted the donation of the land around the Lewis and Clark Caverns as the first state park. The Parks Division now manages 50 state parks, 321 fishing access sites, and 12 affiliated sites using revenues from the coat tax trust, accommodation tax, fishing license revenues, general license dollars, light vehicle registration fees, and revenues derived from park related activities. Along the way, the legislature has provided increased funding for parks acquisitions and increased operational funding on a nearly annual basis.

State statute supports the development of state parks (23-1-101, MCA) and fishing access sites (87-1-605, MCA) for the purpose of cultural, historic, and recreational preservation. Missing is policy regarding how many sites should exist, where they should be located, and how new sites should be selected. Without such policy, the legislature will

continually be faced with requests to increase the operational resources and, as in both last and this session, the size of the system.

For example, at a recent Board of Land Commissioners meeting, a FWP staff member stated that the department's policy for FAS acquisition was one per every half day float on major Montana rivers. This is not a policy that has been endorsed by the legislature, except by granting permission for the department to develop such sites. Adhering to this policy would clearly increase the number of sites to be managed with the same limited resources. Essentially, this means the legislature is asked to fund operations and maintenance for a FAS program that may or many not meet its public policy goals.

Given that the legislature has not taken an active role in the decision of acquisition of parks, but is asked to fund those acquisitions and all associated development and maintenance costs, the issue for the legislature is whether it wishes to take a more active role in parks acquisition?

The parks system continues to grow as evidenced by the request for an additional \$2.0 million general fund for park acquisition. Among the questions for the legislature to consider are:

- o Where does the public believe new parks should be?
- o To what level should parks be developed?
- o How many fishing access sites are needed on major rivers?
- o How is the cost of site development considered in the acquisition process?

A second issue is determining if operating and maintenance resources are adequate. Those questions may include:

- o Is there a standard to determine resources allocation?
- o Should maintenance be determine based on cost per acre, a cost per site, basic costs plus amenities, or cost per visitor?
- o How should major repairs and renovation be prioritized?

If the legislature does want to take a more active role in defining the state parks system, one or more of the following should be considered:

- o Propose a resolution to determine the scope, size, and funding methodology for Montana state parks and fishing access sites
- o Propose legislation to define the state park system in terms of size, location and future development
- o Require that proposals submitted to the FWP Commission and the Board of Land Commissioners for parks and fishing access site acquisitions include an estimate of development and maintenance costs as well as an identified adequate funding source
- o Request that the division design a resource allocation formula to determine an appropriate level of maintenance for existing and proposed parks and FAS operations

DP 601 - Parks Maintenance and Operations Staff - The executive seeks a base adjustment to fund summer employees to complete park maintenance tasks such as latrine upkeep, vandalism control and repair, weed control, and visitor assistance. These field staff would be located near Billings, Bozeman, Whitefish, Great Falls, and Missoula.

**LFD
COMMENT**

The 2.08 FTE translates to an additional 4,326 work hours.

**LFD
ISSUE**

Fund is not structurally balanced

Figure 6 shows the projected ending fund balance for the state parks miscellaneous fund. The ending fund balance is declining due to the fact that expenditures, capital development, and appropriations are greater than anticipated revenues. The major revenue stream to this fund is the \$4.00 light vehicle fee. That fee has remained constant for the past three years at \$2.9 million per year.

The legislature may wish to:

- o Establish an appropriation level equal to revenues
- o Reduce capital authority to allow for increased maintenance
- o Request legislation to increase the light vehicle fee to provide increase revenues to the fund

Figure 6
Department of Fish, Wildlife and Parks
State Parks Miscellaneous

	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Beginning Balance	\$4,964,843	\$3,664,695	\$1,714,640	\$1,095,442
Expenditures	(5,650,263)	(6,280,101)	(4,949,244)	(3,931,441)
Revenues	4,350,115	4,330,046	4,330,046	4,330,046
Ending Fund Balance	\$3,664,695	\$1,714,640	\$1,095,442	\$1,494,047

DP 602 - FAS Management and Maintenance Staff - The executive seeks a base adjustment to fund staff for existing fishing access sites (FAS) around the state to perform include latrine cleaning, weed control, fencing, vandalism repair, and overall site management.

**LFD
COMMENT**

The 3.15 FTE translates into an additional 6,552 work hours.

DP 604 - FAS Capital O&M from HB 5 to HB 2 - The executive requests authority for the FAS program's day-to-day operations, maintenance and weed control that was previously provided in the department's capital program. This transfers the authority from capital to operations. This is funded from a portion of fishing license fees.

**LFD
ISSUE**

This decision package, if approved, would provide funding for day-to-day operations. However, the department would still retain approximately \$325,000 in capital appropriation authority provided by previous legislatures. That appropriation authority is available for use by the division until such time it is reverted. This authority is an obligation of the funds. The legislature may wish to revert the capital authority if the goal is to move day-to-day operations to HB 2.

DP 605 - Restore Parks Base Operations - The executive is requesting \$15,230 in state special revenue and \$29,000 in federal special revenue to restore base operations for the parks budget for the 2011 biennium. This decision package would adjust contract services, minor equipment, weed control and travel.

DP 606 - Restore FAS Base Operations - The executive is requesting \$10,000 in state special revenue and \$17,000 in federal special revenue to restore base operations for the fishing access sites budget for the 2011 biennium. This decision package would adjust minor equipment, travel, weed control, and grounds maintenance.

DP 607 - Parks Snowmobile Equipment - BIEN - The executive is requesting a decrease in authority for the snowmobile program due to revenue shortfalls from both snowmobile fuel taxes. This decision package consists of a reduction of grants to local clubs by \$47,000 annually and a reduction in the biennial equipment budget by \$70,000. The remaining budget authority would be a biennial appropriation to streamline purchasing of equipment for snowmobile clubs.

**LFD
COMMENT**

For fiscal years 2006 through 2008, the average annual revenue from snowmobile fuel taxes was \$616,384. This decision package would provide a total appropriation authority of \$535,000 each year of the biennium.

Proprietary Rates*Visitor Services***Proprietary Program Description**

This enterprise fund was established to manage state park visitor services revenue. The fund is used to provide inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. Monies generated go back into the purchase of inventory and also the improvement of visitor services in state parks and FWP overall.

In FY 2008 this fund accounted for the following monies: \$112,395 of earned revenue, \$105,339 of expenditures and a fund balance in the amount of \$232,050.

Program Narrative*Revenues*

Revenues are generated by the sales of firewood, interpretive and educational merchandise at park visitor centers and regional offices.

Expenditures

The expenses associated with the enterprise fund include office supplies, merchandising materials, and the purchase of inventory to replenish stock.

Cash Balance

As the program develops, the 60-day working capital requirement would provide sufficient cash to fund on-going operations of the program. The cash balances are highest in the winter after the parks season ends and lowest in the spring when stock is purchased to replenish inventory.

2011 Biennium Report on Enterprise Funds				
Visitor Center Services				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$220,746	\$232,051	\$232,051	\$232,051
Operating Expenses	106,022	94,636	95,000	95,000
Operating Revenues				
Revenue from Fees	112,396	94,636	95,000	95,000
Other Revenues	<u>4,931</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Operating Revenues	117,327	94,636	95,000	95,000
Operating Gain (Loss)	<u>11,305</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending Working Capital Balance	<u>\$232,051</u>	<u>\$232,051</u>	<u>\$232,051</u>	<u>\$232,051</u>

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	28.55	28.55	28.55	28.55	28.55	28.55	0.00	0.00%
Personal Services	1,717,312	1,804,931	1,832,447	1,837,618	3,522,243	3,670,065	147,822	4.20%
Operating Expenses	1,441,196	1,458,831	1,532,313	1,535,587	2,900,027	3,067,900	167,873	5.79%
Equipment & Intangible Assets	0	5,000	0	0	5,000	0	(5,000)	(100.00%)
Grants	314,533	672,313	314,533	314,533	986,846	629,066	(357,780)	(36.25%)
Total Costs	\$3,473,041	\$3,941,075	\$3,679,293	\$3,687,738	\$7,414,116	\$7,367,031	(\$47,085)	(0.64%)
State Special	2,757,055	3,204,437	2,950,250	2,958,156	5,961,492	5,908,406	(53,086)	(0.89%)
Federal Special	715,986	736,638	729,043	729,582	1,452,624	1,458,625	6,001	0.41%
Total Funds	\$3,473,041	\$3,941,075	\$3,679,293	\$3,687,738	\$7,414,116	\$7,367,031	(\$47,085)	(0.64%)

Program Description

The Communication and Education Division coordinates the department’s information and education programs as well as the department’s planning efforts. This coordination includes the distribution of public information through news releases; audio-visual materials; brochures and public services announcements; production of hunting, fishing and trapping regulations; and the coordination of hunter, bow-hunter, snowmobile, boat, off-highway vehicle, and youth education and safety programs. The management of the Wildlife Center is included in this division. The division also facilitates the department’s strategic planning process.

Program Highlights

Communication & Education Division	
Major Program Highlights	
<ul style="list-style-type: none">♦ The biennial budget would decrease by one percent if the executive proposal was adopted due to non-continuing expenditures♦ The executive is requesting additional authority for mailing and postage above and beyond the statewide present law adjustment	
Major LFD Issues	
<ul style="list-style-type: none">♦ The executive seeks operations authority for a modified FTE♦ The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success	

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee did not select any program goals to monitor during the 2009 interim

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Develop an educational program to increase awareness of non-hunting, wildlife-related recreational opportunities on land managed by MFWP.
- Develop an outreach program to create a vision of the role people play in restoring and conserving wildlife and their habitats.
- Utilize the community pond program to help communities develop ponds that can be used for educational, as well as recreational, purposes such as Hooked on Fishing

LFD ISSUE

Strategic priorities submitted

The department provided five strategic priorities as program goals. The above three are serving as a sample. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to a number of goals of the Fisheries and Wildlife Divisions. Due to this relationship, it is difficult to determine if these goals relate to the Communication and Education Division. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table							
Communication And Education Div							
		Base	% of Base	Budget	% of Budget	Budget	
Program Funding		FY 2008	FY 2008	FY 2010	FY 2010	FY 2011	
						% of Budget FY 2011	
02000	Total State Special Funds	\$ 2,757,055	79.4%	\$ 2,950,250	80.2%	\$ 2,958,156	80.2%
	02238 Off-Hwy Vehicle Acct (Coned)	4,999	0.1%	5,116	0.1%	5,121	0.1%
	02328 Ohv Gas Tax - Con Ed	12,286	0.4%	12,550	0.3%	12,562	0.3%
	02330 Snowmobile Fuel Tax-Con Ed	54,093	1.6%	56,405	1.5%	56,505	1.5%
	02408 Coal Tax Trust Account	70,693	2.0%	73,295	2.0%	73,407	2.0%
	02409 General License	2,614,984	75.3%	2,802,884	76.2%	2,810,561	76.2%
03000	Total Federal Special Funds	715,986	20.6%	729,043	19.8%	729,582	19.8%
	03097 Fedl Fish(W/B) Wildlife(P/R)	682,661	19.7%	694,252	18.9%	694,728	18.8%
	03403 Misc. Federal Funds	33,325	1.0%	34,791	0.9%	34,854	0.9%
Grand	Total	\$ 3,473,041	100.0%	\$ 3,679,293	100.0%	\$ 3,687,738	100.0%

The largest funding source in the Communication and Education Division is the general license account. Other state special revenue sources are interest from the coal tax trust account, and snowmobile and off-highway fuel taxes. Fuel taxes are dedicated revenue sources for snowmobile and off highway vehicle education programs. Federal funds are primarily Pittman-Robertson and Wallop-Breaux funds derived from federal excise taxes on sporting rifles, ammunition, and fishing equipment, and require a 25 percent match in non-federal funds.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	3,473,041	3,473,041	6,946,082	94.29%
Statewide PL Adjustments	0	0	0	0.00%	126,252	134,697	260,949	3.54%
Other PL Adjustments	0	0	0	0.00%	80,000	80,000	160,000	2.17%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$3,679,293	\$3,687,738	\$7,367,031	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					191,488					196,872
Vacancy Savings					(76,353)					(76,566)
Inflation/Deflation					19,762					23,036
Fixed Costs					(8,645)					(8,645)
Total Statewide Present Law Adjustments					\$126,252					\$134,697
DP 801 - Regulation Production										
	0.00	0	50,000	0	50,000	0.00	0	50,000	0	50,000
DP 802 - Restore Communication and Education Ops Budget										
	0.00	0	30,000	0	30,000	0.00	0	30,000	0	30,000
Total Other Present Law Adjustments										
	0.00	\$0	\$80,000	\$0	\$80,000	0.00	\$0	\$80,000	\$0	\$80,000
Grand Total All Present Law Adjustments					\$206,252					\$214,697

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - The communication and Education Division has an entry target market of 80 percent without exceptions. The current market rate in relation to the 2008 market survey is 96 percent
- o **Vacancy** - The division does not have any occupations with a high turnover rate
- o **Legislatively applied vacancy savings** - The division used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate
- o **Pay Changes**
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with the excess vacancy savings and the 0.6 percent discretionary pay from HB 13.
 - Additional pay adjustments were made across the board to improve pay equity and bring employees closer to the 2006 market as allowed under the market progression models. The average salary adjustment was 5.6 percent

- **Retirements** - The division anticipates eight employees, 28 percent of the division, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$188,359 in unfunded compensated absence liability

DP 801 - Regulation Production - The executive is requesting \$50,000 of state special revenue each year of the biennium for increased printing and distribution costs associated with hunting, fishing and trapping regulations that are produced annually by FWP. This request is based on an estimated 10 percent increase in printing costs and a 16 percent increase in postage and freight expenses. The request is split evenly between publication expense and postage and mailing.

**LFD
ISSUE**
Postage and Mailing Costs

Postage and mailing expenses were increased by 2.44 percent and are included in the statewide present law adjustments for each program. A 16 percent increase on the base expenditures of \$145,859 would be \$23,200. If this decision package and the statewide present law adjustment are approved, the division would receive \$28,559 or a 19.5 percent increase. The legislature may wish to:

- Reduce the decision package by \$3,559 to reflect a total increase of 16 percent
- Deny the request and direct the agency to operate on the statewide present law adjustments

DP 802 - Restore Communication and Education Ops Budget - The executive is requesting \$30,000 of state special revenue authority each year of the biennium to restore operations funding that was utilized to hire a Comprehensive Fish and Wildlife Plan Information and Outreach Program Coordinator. This proposal restores the operations funding for the modified FTE to maintain this outreach coordinator position.

**LFD
ISSUE**
Modified FTE

The agency received approval from the Governor's budget office for a 0.50 FTE at the beginning of the 2009 biennium. Since the agency used operations dollars for a modified FTE, the expenditures related to the modified FTE were not carried into the base budget. This decision package is asking to restore the funding as operations to then be utilized to support a modified FTE. The legislature may wish to address the department's intent regarding this position. If this position is truly temporary in nature, the legislature may wish to consider appropriating 0.50 FTE as one-time only, which would categorize the expenditures appropriately and would not continue past the 2011 biennium without legislative approval.

Other Issues
Shooting Range Grants

The division received a significant increase in authority to fund \$1.0 million in shooting range grants over the biennium. The division spent \$261,000 for this purpose in FY 2008. The legislature may wish to receive a performance update on the number, types, and dollar values of grants to be funded during the remainder of the biennium. If significant expenditures are not planned, the legislature may wish to reduce the funding for this program to eliminate excess authority.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	96.24	96.24	96.24	96.24	96.24	96.24	0.00	0.00%
Personal Services	5,050,370	5,307,046	5,403,240	5,420,475	10,357,416	10,823,715	466,299	4.50%
Operating Expenses	4,295,724	4,337,715	4,922,211	4,800,847	8,633,439	9,723,058	1,089,619	12.62%
Equipment & Intangible Assets	38,036	40,721	38,036	38,036	78,757	76,072	(2,685)	(3.41%)
Grants	0	0	0	0	0	0	0	n/a
Transfers	24,374	99,652	99,652	99,652	124,026	199,304	75,278	60.70%
Total Costs	\$9,408,504	\$9,785,134	\$10,463,139	\$10,359,010	\$19,193,638	\$20,822,149	\$1,628,511	8.48%
General Fund	0	0	0	0	0	0	0	n/a
State Special	9,301,360	9,663,869	10,338,193	10,251,477	18,965,229	20,589,670	1,624,441	8.57%
Federal Special	107,144	121,265	124,946	107,533	228,409	232,479	4,070	1.78%
Total Funds	\$9,408,504	\$9,785,134	\$10,463,139	\$10,359,010	\$19,193,638	\$20,822,149	\$1,628,511	8.48%

Program Description

The Management and Finance Division is made of up two sections. The management section of this division are responsible for overall department direction regarding policy, planning, program development, guidelines, budgets, decision-making for key resource activities, and supervision of the seven divisions. Legal services and human resources management for the department are also in this division.

The finance section of this division provide for department-wide support for accounting; fiscal management; purchasing; property management; federal aid administration; and the sale of hunting, fishing, and other recreational licenses.

Program Highlights

Management & Finance Division
Major Program Highlights
<ul style="list-style-type: none">◆ The biennial budget would increase by 8 percent if the executive proposal was adopted due to statewide present law adjustments◆ The executive is seeking funding to develop comprehensive oil and gas stipulations in reference to wildlife protection
Major LFD Issues
<ul style="list-style-type: none">◆ The energy development proposal lacks measurable criteria◆ The department submitted strategic priorities from its 2008 Strategic Plan without objectives to determine future success

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- Enhance public involvement in decision-making.
 - Establish citizen advisory committees (CAC) in each FWP region by July 1, 2007
 - Meet with CAC's at least four times each year
 - Produce summaries of each CAC meeting and post on FWP website within one week of meeting

LFD COMMENT

The department was able to establish CAC's in each region and meet with them on a regular basis. The summaries are available on the website, but not normally within the stated time frame. The goal does not address how the input was utilized. The legislature may wish to inquire about this.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Increase efficiency and accountability of agency programs.
- Actively encourage and document accountability of MFWP programs with staff and external interested parties.
- Develop marketing efforts that increase the yearly purchase of licenses.

LFD ISSUE

Strategic priorities submitted

The department provided nine strategic priorities as program goals. The above three are serving as a sample. These priorities are not aligned with any specific goal of the program. The 2008 Strategic Plan relates this priority to three goals of the Management Division. These strategies demonstrate the agency's commitment for increasing accountability of programs, but do not discuss how this will occur. This leaves the reader wondering what the plan is to accomplish the goals. The legislature may wish to discuss with the agency appropriately formatted goals and objectives in order to properly align resources to a strategic plan.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Management And Finance						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ -	-	\$ -	-
01100 General Fund	-	-	-	-	-	-
02000 Total State Special Funds	9,301,360	98.9%	10,338,193	98.8%	10,251,477	99.0%
02086 Mountain Sheep Account	19,500	0.2%	19,500	0.2%	19,500	0.2%
02112 Moose Auction	1,250	0.0%	1,250	0.0%	1,250	0.0%
02176 Mountain Goat Auction	900	0.0%	900	0.0%	900	0.0%
02409 General License	9,247,049	98.3%	10,208,604	97.6%	10,121,888	97.7%
02414 Snowmobile Reg	5,287	0.1%	5,287	0.1%	5,287	0.1%
02547 Search & Rescue	24,374	0.3%	99,652	1.0%	99,652	1.0%
02559 Mule Deer Auction	1,300	0.0%	1,300	0.0%	1,300	0.0%
02560 Elk Auction	1,700	0.0%	1,700	0.0%	1,700	0.0%
03000 Total Federal Special Funds	107,144	1.1%	124,946	1.2%	107,533	1.0%
03097 Fedl Fish(W/B) Wildlife(P/R)	40,373	0.4%	58,218	0.6%	40,808	0.4%
03129 Usfws Section 6	-	-	-	-	-	-
03403 Misc. Federal Funds	-	-	-	-	-	-
03408 State Wildlife Grants	66,771	0.7%	66,728	0.6%	66,725	0.6%
Grand Total	\$ 9,408,504	100.0%	\$ 10,463,139	100.0%	\$ 10,359,010	100.0%

The division provides management and financial oversight of all department activities. Because of this role the department is funded almost entirely with general license account revenues. Pittman-Robertson, Wallup-Breaux and state wildlife grants provide the federal funds to the division.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	9,408,504	9,408,504	18,817,008	90.37%
Statewide PL Adjustments	0	0	0	0.00%	749,941	648,124	1,398,065	6.71%
Other PL Adjustments	0	0	0	0.00%	278,600	279,757	558,357	2.68%
New Proposals	0	0	0	0.00%	26,094	22,625	48,719	0.23%
Total Budget	\$0	\$0	\$0		\$10,463,139	\$10,359,010	\$20,822,149	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----					-----Fiscal 2011-----					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				561,339						579,291
Vacancy Savings				(224,469)						(225,186)
Inflation/Deflation				33,811						37,650
Fixed Costs				379,260						256,369
Total Statewide Present Law Adjustments				\$749,941						\$648,124
DP 902 - Restore Search & Rescue Base										
0.00	0	75,278	0	75,278	0.00	0	75,278	0	75,278	
DP 903 - Commission Expense Adjustment										
0.00	0	16,000	0	16,000	0.00	0	16,000	0	16,000	
DP 904 - Attorney General FTE										
0.00	0	62,322	0	62,322	0.00	0	63,479	0	63,479	
DP 905 - Energy Development Proposal										
0.00	0	100,000	0	100,000	0.00	0	100,000	0	100,000	
DP 906 - Area Office Rent Increases										
0.00	0	25,000	0	25,000	0.00	0	25,000	0	25,000	
Total Other Present Law Adjustments										
0.00	\$0	\$278,600	\$0	\$278,600	0.00	\$0	\$279,757	\$0	\$279,757	
Grand Total All Present Law Adjustments				\$1,028,541						\$927,881

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The Management and Finance Division has an entry target market of 80 percent with an occasional exception. The current market rate in relation to the 2008 market survey is 90 percent
- **Vacancy** - The division reports difficulty in retaining entry level positions due to pay and limited opportunities for advancement
- **Legislatively applied vacancy savings** - The division was unable to meet vacancy savings rate. Carry forward funds were used to cover the shortfall
- **Pay Changes**
 - Funds were not transferred from other budgeted expenditure categories. All pay changes were completed with the vacancy savings, the 0.6 percent discretionary pay from HB 13, and carry forward funds
 - The division made adjustments based on the market progression models for occupations. The average salary adjustment for the 26 affected positions was 6.6 percent
- **Retirements** - The division anticipates 22 employees, 29 percent of the division, would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$336,164 in unfunded compensated absence liability

DP 902 - Restore Search & Rescue Base - The executive requests a base adjustment of \$75,278 each year of the biennium to re-establish authority to transfer cash to the Department of Military Affairs for costs incurred by search and rescue clubs when searching for hunters, anglers, or trappers. The revenue source for these funds is a \$0.25 surcharge of each conservation license sold.

LFD COMMENT	The surcharge is collected by the department for deposit into the search and rescue fund. The department transfers funds to the Department of Military Affairs when a qualified search and rescue mission occurs.
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DP 903 - Commission Expense Adjustment - The executive seeks restored authority for commission compensation for their travel at the standard per diem rate and an honorarium of \$50 per day for participation in meetings or conducting other commission business.

**LFD
COMMENT**

This expense is not rolled forward in the base budget and therefore the department must seek the authority each biennium.

DP 904 - Attorney General FTE - This executive requests funding to support an additional 0.50 FTE in the Attorney General's office (Prosecution Services Bureau -- PSB) of the Department of Justice for an attorney to assist in prosecutions of major fish and wildlife violations. This position would assist in implementing 44-4-115 MCA, which provides for a program in PSB for the investigation and prosecution of criminal cases.

**LFD
ISSUE**

What will be accomplished?

The department is seeking to fulfill the terms of 44-4-115, MCA, which states:

"There is a fish, wildlife, and parks enforcement program in the department of justice, which must be administered by the entity in the department that assists county attorneys with prosecutions. The program staff may investigate and may prosecute criminal cases concerning the violation of the laws administered by the department of fish, wildlife, and parks. The program is under the supervision and control of the attorney general and consists of a half-time attorney licensed to practice law in Montana who may prosecute, or assist county attorneys and the department in the prosecution of, criminal violations of Title 87. "

To implement this proposal, the division would likely enter into a Memorandum of Understanding (MOU) with the Department of Justice. Most MOUs contain the detail of what the agencies agree to, including performance related information. The legislature may wish to inquire how the department will determine the outcome of having these positions. Is the department seeking additional assistance with their workload or is the department seeking to raise prosecutions to a higher level. Without further detail, it cannot be determine what the agency intends to accomplish with providing this funding to the Department of Justice.

DP 905 - Energy Development Proposal - This state special revenue budget request is for \$100,000 per year for the 2011 biennium to develop a comprehensive oil and gas stipulations and recommendation package for fish and wildlife associated with Montana's sagebrush and grasslands. These stipulations would be science based, utilizing existing peer reviewed research throughout the west as well as Montana specific biological data, and a collaborative approach to develop the recommendations.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity

Justification

The department proposes to develop comprehensive science-based, oil and gas stipulation recommendations for sagebrush/grasslands and associated fish and wildlife species for Montana. Because FWP does not have a significant history to deal with energy development issues, many recommendations are being made based on replicating information from other states, provinces, or federal agencies, with no assurance that they are based on best science or is applicable to Montana's unique habitat or species. As a result, FWP responses to federal and state mineral leasing requests have been less consistent than desired. This project would provide a document that could be used by industry or other agencies to understand how FWP can be predicted to respond to leasing, exploration, and development of mineral resources. This document would also serve as a process template for similar documents for other fish and wildlife community types.

Project Outcome

This project would result in the department providing a consistent and predictable set of recommendations for oil and gas development that would assist in conserving Montana’s fish, wildlife and recreational resources.

Performance Criteria

Progress will be measured by confirming that project phases are being completed according to established timelines. The FWP Wildlife Division will monitor all performance criteria. The phases are:

- o Identification of project scope and objectives
- o Consolidation of fish and wildlife inventory and GIS data
- o Review and consolidation of existing stipulations and recommendations from other states, provinces and federal agencies
- o Identification of scientific justification for consolidated recommendations and stipulations
- o Drafting of FWP recommendations based on findings
- o Project completion, approval, and distribution of document

Milestones

- o 10/09 - Identification of project scope and objectives, consolidation of fish and wildlife inventory and GIS data.
- o 12/09 - Identification and acquisition of contract or other personnel capacity needs.
- o 07/09 - Review and consolidation of existing stipulations and recommendations from other states, provinces, and federal agencies.
- o 01/10 - Identification of scientific justification for consolidated recommendations and stipulations.
- o 01/11 - Draft of FWP recommendations based on findings.
- o 07/11 - Project completion, approval, and distribution of document.

FTE

The work will be completed using existing staff, a modified temporary employee, and/or contract labor. The management of this work will be included in the performance evaluation of the Special Projects Planning and Policy Coordinator. A modified temporary FTE might be requested or a contract employee might be hired based on the availability of qualified applicants.

Funding

Funding originates from general license dollars. Based on meeting performance measures and the benefit perceived by FWP and outside interests, this process could be repeated for other fish and wildlife communities in the 2013 biennium. If so, similar funding of \$100,000 adjusted for inflation could be requested.

Obstacles

The primary obstacle for implementing this proposal includes identifying qualified personnel or expertise that understand oil and gas development strategies and limitations and fish and wildlife resource management fundamentals. This obstacle might be overcome through training.

Risk

FWP recommendations will continue to be less consistent and predictable than desired. Oil and gas industry and other state and federal agencies will not have a document to refer to that provides information that predicts likely FWP response to oil and gas leasing, exploration and development. As a result FWP will continue to perform less efficiently than possible and outside interests will not be served as well as could be possible.

**LFD
ISSUE****Weak Performance Criteria**

The expanded justification provides a description of a project with weak performance measures that would be completed within the biennium with the caveat that if it was successful similar projects could occur in future biennia. For this reason, the legislature may wish to consider one or more of the following:

- o Request that the agency strengthen performance measures to clearly define what each step means and to define what a quality outcome will be
- o Restrict this appropriation as one-time-only to allow the legislature to determine the success prior to establishing a similar project for another fish and wildlife community
- o Select this initiative to review throughout the biennium to determine if the project is making progress toward the release of science based surface operating stipulations to protect fish and wildlife resources

DP 906 - Area Office Rent Increases - The executive is requesting \$25,000 authority each year of the biennium to cover increases in rent. The area offices that are affected include Dillon, Butte, Choteau and Havre.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 6101 - Fixed Cost Workers Comp Management Program Allocat										
09	0.00	0	20,092	6,002	26,094	0.00	0	17,421	5,204	22,625
Total	0.00	\$0	\$20,092	\$6,002	\$26,094	0.00	\$0	\$17,421	\$5,204	\$22,625

DP 6101 - Fixed Cost Workers Comp Management Program Allocat - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Rates**Proprietary Program Description***Duplicating Center***Program Proposed Budget**

The following summarizes the total executive budget proposal for this program by year.

FWP Duplicating Center - Proposed Budget					
	FY2010		FY2010		FY2010
	Base	Adjustments	Total	Adjustments	Total
61000 Personal Services	\$35,767	\$968	\$36,765	\$968	\$36,765
6200 Operating Expenses	40,366	99	40,465	115	40,481
Total Costs	\$76,133	\$1,067	\$77,230	\$1,083	\$77,246

Program Description

The department's duplicating center provides duplicating and bindery services to department employees. The Duplicating Center has only 1.00 FTE and whenever the demand for services becomes too great or a particular job is considered too large, the excess jobs are taken to Publications & Graphics to be completed.

Program Narrative

Expenses recovered in the rates are the personal services of the 1.00 FTE, operating expenses, and the raw materials needed for duplicating.

Rates have been historically adjusted based on the need to increase or decrease the cash balances in the account. Prior to requesting new rates, a review of the cash balance is completed. At FYE 2008, the cash balance was (\$1,143).

The 60-day working capital requirement provides sufficient cash to fund on-going operations of this program. Field projects are billed monthly for the services provided during the month. The workload is fairly consistent so there is little fluctuation in cash balances except when additional inventory is purchased.

A portion of the program's fund balance has been reserved for the duplicating center's equipment and inventory. At FYE 2008 the book value of the fund's assets was \$20,933 and the fund had \$9,858 in inventory.

2011 Biennium Report on Internal Services Funds				
Duplicating Center				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$39,277	\$24,768	\$26,498	\$29,196
Operating Expenses	83,770	108,270	77,302	77,346
Operating Revenues				
Revenue from Fees	69,261	110,000	80,000	80,000
Other Revenues	0	0	0	0
Total Operating Revenues	69,261	110,000	80,000	80,000
Operating Gain (Loss)	(14,509)	1,730	2,698	2,654
Ending Working Capital Balance	<u>\$24,768</u>	<u>\$26,498</u>	<u>\$29,196</u>	<u>\$31,850</u>

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FWP Duplicating Center - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjustments	0.0	\$1,067	0.0	\$1,103

Proprietary Rates

The rate methodology attempts to determine a rate for various duplicating and bindery services that allow the fund to recover both the cost of the raw materials and all associated personal services and operating costs. Rates have been historically adjusted based on the need to increase or decrease the cash balance. The requested rates have been increased only to recover anticipated inflationary increases in the raw materials and administrative costs.

For the 2011 biennium the following rates would generate revenue commensurate with costs as presented in the executive budget proposal.

FWP Duplicating Center - Proposed Rates				
Service	Actual 2008	Actual 2009	Proposed 2010	Proposed 2011
<u>Duplicating (number of copies)</u>				
1-20	0.050	0.055	0.060	0.065
21-100	0.035	0.040	0.045	0.050
101-1000	0.030	0.035	0.040	0.045
1001-5000	0.025	0.030	0.035	0.040
Color Copies	0.250	0.200	0.250	0.250
<u>Bindery</u>				
Colating (per sheet)	0.005	0.010	0.010	0.010
Hand stapling (per set)	0.015	0.020	0.020	0.020
Saddle stitch (per set)	0.030	0.035	0.035	0.035
Folding (per sheet)	0.005	0.010	0.010	0.010
Punching (per sheet)	0.001	0.005	0.005	0.005
Cutting (per minute)	0.550	0.600	0.600	0.600

Vehicle Fund

Program Proposed Budget

The following summarizes the total executive budget proposal for this program by year.

FWP Vehicle Fund - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2010 Adjustments	FY2010 Total
61000 Personal Services	\$105,700	\$13,580	\$119,280	\$13,726	\$119,246
62000 Operating Expenses	1,814,218	263,791	2,078,009	280,842	2,095,060
63000 Equipment	840,017	0	840,017	0	840,017
Total Costs	<u>\$2,759,935</u>	<u>\$277,371</u>	<u>\$3,037,306</u>	<u>\$294,568</u>	<u>\$3,054,323</u>

Program Description

The department's equipment fund provides a fleet of vehicles to department employees. The revenue users are department employees, mostly enforcement wardens, fish and wildlife biologists, and park employees. Every month, users are charged for the miles driven during the previous month.

Funding

In the base year fund revenues are derived from 67 percent state special revenue, 26 percent federal revenues and 3 percent private trusts. There is a minor amount of general fund. The department anticipates a similar funding mix for the 2011 biennium.

Program Narrative

Revenues, Expenses and Fund Equity

The objective of the vehicle account is to recover (through rates and annual auction revenues) sufficient funds to cover administrative costs to operate the program, fuel, repair costs, and replace vehicles at approximately 120,000 miles. A total of 2.56 FTE are supported by this fund. The two largest costs are fuel and repairs. In FY 2008, the fund spent \$1,280,000 on fuel and \$340,000 on repairs. Gasoline expenses have increased an average of 15 percent over the past six years and we project this rate to continue into the next biennium. In FY 2008, the department drove just over 5,500,000 miles in department vehicles. Due to the proposed rates in FY 2010 and FY 2011, the program anticipates revenues of \$3.2 million in FY10 and \$3.3 in FY11.

Working Capital Discussion

The department attempts to manage this account so that a 60-day working capital amount of cash is available when the cash balance is at its lowest level. To compensate for a cash flow problem created by increasing fuel costs rates, we are requesting an additional rate increase of 29 percent in FY 2010 and 31.8 percent in FY 2011 for our vehicles.



The requested adjustment for gasoline is 10 percent higher than inflationary factor utilized to develop the executive request. Since the time the inflationary factors were developed, the cost of gasoline has decreased significantly.

Fund Equity and Reserved Fund Balance

There is no requirement to reserve fund balance. At FYE 2008, the vehicle fund had total assets of \$6.5 million and the book value (original cost less accumulated depreciation) of the fleet was \$6.1 million. The major liability is a \$300,000 loan to ensure a positive cash balance at year-end. A portion of the program's fund balance has been reserved for the book value of department vehicles.

2011 Biennium Report on Internal Services Funds				
Vehicle Fund				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$5,624,605	\$5,837,596	\$6,396,397	\$7,507,740
Operating Expenses	2,368,173	2,091,199	2,188,657	2,226,424
Operating Revenues				
Revenue from Fees	2,502,210	2,650,000	3,250,000	3,300,000
Other Revenues	0	0	0	0
Total Operating Revenues	2,502,210	2,650,000	3,250,000	3,300,000
Gain (loss) on Sale of Assests	(76,328)	(100,000)	(100,000)	(100,000)
Operating Transfers In (Out)	155,282	100,000	150,000	150,000
Operating Gain (Loss)	212,991	558,801	1,111,343	1,123,576
Ending Working Capital Balance	\$5,837,596	\$6,396,397	\$7,507,740	\$8,631,316

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FWP Vehicle Fund - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjustments	0.0	\$277,371	0.0	\$294,568

Proprietary Rates

For the 2011 biennium the following rates would generate revenue commensurate with costs as presented in the executive budget proposal.

The rate methodology attempts to determine a cost/mile rate for various classes of vehicles. The methodology is to determine the previous year's expenses, including operating, maintenance, and administration expenses minus the previous year's revenue generated from the rates and the annual vehicle auction to establish the net cash inflow. Future year expenses are estimated based on the most current year's information plus a 10 percent inflationary factor. Due to the current cash balance and the increased fuel costs, our proposed vehicle rates have been increased 29 percent in FY 2010 and 31.8 percent in FY 2011.

FWP Vehicle Fund - Proposed Rates				
Vehicle	Actual 2008	Actual 2009	Proposed 2010	Proposed 2011
Sedans (per mile)	0.36	0.38	0.45	0.46
Vans (per mile)	0.40	0.42	0.52	0.53
Utilities (per mile)	0.43	0.46	0.57	0.58
Pickups - 1/2 ton (per mile)	0.39	0.41	0.52	0.53
Pickups - 3/4 ton (per mile)	0.44	0.48	0.60	0.61

LFD ISSUE

The requested adjustment for gasoline is 10 percent higher than inflationary factor utilized to develop the executive request. Since the time the inflationary factors were developed, the cost of gasoline has decreased significantly. The legislature may wish to adjust the rates to account for lower gasoline costs.

Warehouse Inventory

Program Proposed Budget

The following summarizes the total executive budget proposal for this program by year.

FWP Warehouse Fund - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2010 Adjustments	FY2010 Total
61000 Personal Services	\$14,205	\$7,556	\$21,761	\$7,565	\$21,770
62000 Operating Expenses	105,047	177	105,224	195	105,242
Total Costs	<u>\$119,252</u>	<u>\$7,733</u>	<u>\$126,985</u>	<u>\$7,760</u>	<u>\$127,012</u>

Program Description

The department's warehouse contains mainly uniform items (both for wardens and non-wardens) and items specifically related to the duties of the department, such as gill nets for the fisheries biologists. Overhead costs are recovered by charging a predetermined fixed percentage to all sales.

Program Narrative

The expenses associated with the warehouse include personal services, miscellaneous office supplies and expenses for the warehouse worker, and inventory purchased to replenish existing stock. Revenues are the sales of inventory items to department employees. We anticipate revenues to be constant at around \$110,000 per year for FY 2010 and FY 2011.

Working Capital Discussion

The 60-day working capital requirement provides sufficient cash to fund on-going operations of this program. The department attempts to ensure that fees are commensurate with costs over time by adjusting the proposed rates for excess income or loss from previous periods.

Field projects are billed monthly for the purchases made during the month. Cash balances fluctuate during the year. Cash balances are lowest during the winter when stock is replenished and highest during the summer when temporary and seasonal employees are hired.

Fund Equity and Reserved Fund Balance

A portion of the program's fund balance has been reserved for the warehouse inventory. At FYE 2008, the warehouse inventory was \$104,190.

2011 Biennium Report on Internal Servivces Funds				
Warehouse Fund				
	Actual	Budgeted	Projected	Projected
	2008	2009	2010	2011
Beginning Working Capital Balance	\$138,796	\$112,871	\$57,030	\$47,965
Operating Expenses	129,917	135,841	127,065	127,101
Operating Revenues				
Revenue from Fees	103,992	80,000	118,000	120,000
Other Revenues	0	0	0	0
Total Operating Revenues	103,992	80,000	118,000	120,000
Operating Gain (Loss)	(25,925)	(55,841)	(9,065)	(7,101)
Ending Working Capital Balance	\$112,871	\$57,030	\$47,965	\$40,864

Present Law Adjustments

FWP Warehouse Fund - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjustments	0.0	\$7,733	0.0	\$7,760

Proprietary Rates

The rate requested for the warehouse is an overhead rate that is added to the cost of the inventory items. The overhead rate will generate sufficient revenue to cover the administrative costs of the program.

Due to a cash build up, the warehouse overhead rate for the past four years has been 5 percent. We are now requesting a warehouse overhead rate of 18 percent in FY 2010 and 20 percent in FY 2011. The rate is calculated by estimating the support costs required to maintain the warehouse function such as personal services, office supplies and other miscellaneous office costs. Based on estimated warehouse sales, a fixed overhead percentage is determined that allows the department to recover the warehouse support costs. This rate is also adjusted for any previous over or under collections. Due to the size of this operation, a simple warehouse overhead rate has been considered the most logical.

For the 2011 biennium the following rates would generate revenue commensurate with costs as presented in the executive budget proposal.

FWP Warehouse Fund - Proposed Rates				
	Actual	Actual	Proposed	Proposed
Rate	2008	2009	2010	2011
Percentage Mark-up on Goods	5.00	5.00	18.00	18.00

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	376.29	376.29	390.29	390.29	376.29	390.29	14.00	3.72%
Personal Services	21,024,452	23,309,232	26,729,633	26,814,954	44,333,684	53,544,587	9,210,903	20.78%
Operating Expenses	19,642,858	30,235,268	37,523,194	36,417,949	49,878,126	73,941,143	24,063,017	48.24%
Equipment & Intangible Assets	107,827	237,754	151,561	150,527	345,581	302,088	(43,493)	(12.59%)
Capital Outlay	441,304	0	141,304	141,304	441,304	282,608	(158,696)	(35.96%)
Grants	1,870,416	2,216,541	2,033,416	2,033,416	4,086,957	4,066,832	(20,125)	(0.49%)
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	0	1,807	0	0	1,807	0	(1,807)	(100.00%)
Total Costs	\$43,086,857	\$56,000,602	\$66,579,108	\$65,558,150	\$99,087,459	\$132,137,258	\$33,049,799	33.35%
General Fund	4,785,174	5,088,372	6,437,480	6,453,383	9,873,546	12,890,863	3,017,317	30.56%
State Special	18,943,357	24,069,733	36,714,516	35,639,796	43,013,090	72,354,312	29,341,222	68.21%
Federal Special	19,358,326	26,842,497	23,427,112	23,464,971	46,200,823	46,892,083	691,260	1.50%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$43,086,857	\$56,000,602	\$66,579,108	\$65,558,150	\$99,087,459	\$132,137,258	\$33,049,799	33.35%

Agency Description

Mission Statement: To protect, promote, and improve a clean and healthful environment to benefit present and future generations.

The Department of Environmental Quality is responsible for air, land, and water quality; hazardous waste facilities; underground storage tanks; solid waste management systems; drinking water and waste water treatment systems; and mining operations. The department is also responsible for siting and needs analyses of transmission lines and pipelines, and is the lead agency for energy efficiency, renewable energy, and reclamation and clean-up activities related to the federal and state superfund programs.

Agency Highlights

Department of Environmental Quality	
Major Budget Highlights	
♦	The executive budget would increase by \$33 million or 33 percent in the 2011 biennium from the previous biennium, of which \$9.9 million is statewide present law adjustments
♦	Major increases from the base include <ul style="list-style-type: none"> • \$18.6 million for site remediation under the state Superfund program • \$2.0 million for public water supply program staff
♦	One-time-only proposals total \$13.3 million over the biennium and include: <ul style="list-style-type: none"> • \$10.0 million for various remediation projects • \$150,000 for online reporting for regulated facilities • \$50,000 for monitoring Whitefish lake
♦	The remaining \$3.0 million increase relates to base budget adjustments to account for increased rent, contracted services and employee travel and communication costs
♦	Two requests totaling \$10.7 million are contingent on the passage and approval of proposed legislation
♦	The executive is requesting \$26.2 million in resource indemnity funding

<ul style="list-style-type: none">◆ Activities funded with air quality fees are increased by 54 percent in the executive budget
Major LFD Issues
<ul style="list-style-type: none">◆ Resource indemnity funding is limited and should be tracked closely◆ Resource indemnity trust interest and related taxes can no longer support programs for which it has traditionally provided funding◆ Increases in the air quality program may lead to increased fees charged to the regulated community◆ Decision packages related to technical or site specific activities should contain additional detailed information to provide appropriate information for the legislature to consider appropriations policy◆ In most programs, submitted goals do not include measurable objectives◆ The agency did not provide program specific details related to vacancies and vacancy savings◆ Base adjustments in the prevention, planning, and assistance and permitting and compliance divisions are not broken down by program for legislative review

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Agency Market** – DEQ has not established one target market ratio for the agency. The current pay rules establish a matrix of minimum market percentages, graduated according to years of job-related experience. They are as follows:
 - 80 percent for individuals with zero to two years experience at current occupation
 - 84 percent for individuals with two to four years experience at current occupation
 - 87 percent for individuals with four to six years experience at current occupation
 - 90 percent for individuals with six to eight years experience at current occupation
 - 94 percent for individuals with eight to ten years experience at current occupation
 - 97 percent for individuals with greater than ten years experience at current occupation
- o The approximate agency market ratio on June 30, 2008, relative to the 2006 market survey was 106.7 percent
- o The agency market ratio after the HB 13 adjustment on October 1, 2008, is 90.14 percent
- o The agency makes exceptions to the pay rules for the Environmental Science Specialist and Environmental Engineering Specialists occupations
- o **Obstacles** - Funding constraints remain the major challenge to achieving competitive pay levels. The department’s major funding sources are federal and state special revenues. Federal revenues are generally flat and in some cases declining. State special revenues are primarily fees, many of which are capped in statute and also subject to practical limitations on what levels of increase would be realistic.

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Program level information not provided

The personal services questions were designed to provide information for the legislature to consider various personal services issues when contemplating changes to the executive requested budget. These areas include market rates, vacancies, vacancy savings, and retirement information applicable to those currently employed within each program. The department did not submit specific program level information on vacancies and vacancy savings within its budget request. Instead, the same answer was applied to all divisions. The agency was asked to provide the LFD with this detailed information for inclusion into the budget analysis. The agency did not comply.

The absence of this information prevents the legislature from determining the degree of vacancies within the program, and the true amount of vacancy savings generated from those vacancies. The degree of vacant positions can be an indicator of performance shortfall. In the past, the department has had chronic vacancies in key positions. These vacancies have resulted in impacts on agency operations such as delays in remediation, permitting, and enforcement activities. During the 2009 biennium the agency took steps to increase retention and improve recruitment. However, without vacancy data, and the story behind that data, the legislature cannot discuss the successes or challenges facing with the agency. This directly impacts the legislature's ability to assure the agency has adequate resources to meet the agency mission.

A second issue relates to vacancy savings, and the utilization of those funds, as agencies can utilize the authority associated with vacant positions to increase wages in other positions. This increase is then captured in statewide present law adjustments as an annualized salary and funded fully in the next biennium. The legislature may wish to have this information to be able to determine the effect of vacant positions on the agency as it relates to work load and to providing pay adjustments outside the official pay plan.

The legislature may wish to direct the agency to provide the program level information.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
10 Central Management Program	\$ 875,168	\$ 3,040,841	\$ 1,016,204	\$ 4,932,213	3.73%
20 Plan.Prevent. & Assist.Div.	6,043,777	4,430,142	16,284,362	26,758,281	20.25%
30 Enforcement Division	1,244,347	1,001,442	649,387	2,895,176	2.19%
40 Remediation Division	-	25,300,651	15,164,554	40,465,205	30.62%
50 Permitting & Compliance Div.	4,727,571	37,095,781	13,777,576	55,600,928	42.08%
90 Petro Tank Release Comp. Board	-	1,485,455	-	1,485,455	1.12%
Grand Total	<u>\$ 12,890,863</u>	<u>\$ 72,354,312</u>	<u>\$ 46,892,083</u>	<u>\$ 132,137,258</u>	<u>100.00%</u>

The department's largest source of funding at 54 percent is state special revenue. This revenue is derived from permitting fees, fines, and bonds proceeds utilized to support specific department functions such as permitting, enforcement, and remediation. The federal revenue is provided from the U.S. Environmental Protection Agency (EPA) performance partnership grant, the Superfund Program, and other federal grant resources. The partnership grant is a block grant to the state to provide funding the EPA had previously made through individual grants. Federal grants have varying match requirements. Wetland grants require 25 percent match, drinking water capital improvement requires 20 percent match, and non point source funding can require as much as a 40 percent match. General fund is utilized for personal services and related operating expenses such as travel, communications, and equipment.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The figure is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Statutory Appropriations Department of Environmental Quality					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<u>No Direct Bearing on Agency Operations</u>					
Petroleum Tank Compensation Board Claims	75-11-313	SSR	\$5,652,323	\$3,739,318	\$3,746,815

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

The Petroleum Tank Compensation Board is provided a statutory appropriation of the three quarters of a cent fee on distributed fuel to pay for site cleanup. This activity is further discussed in the Board’s program narrative.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	4,785,174	4,785,174	9,570,348	74.24%	43,086,857	43,086,857	86,173,714	65.22%
Statewide PL Adjustments	445,784	454,892	900,676	6.99%	4,906,165	4,997,321	9,903,486	7.49%
Other PL Adjustments	1,131,522	1,138,317	2,269,839	17.61%	13,071,990	12,149,404	25,221,394	19.09%
New Proposals	75,000	75,000	150,000	1.16%	5,514,096	5,324,568	10,838,664	8.20%
Total Budget	\$6,437,480	\$6,453,383	\$12,890,863		\$66,579,108	\$65,558,150	\$132,137,258	

The executive is seeking a 33 percent increase, or \$33.0 million, in the 2011 proposed biennial budget compared with the 2009 biennial budget. The majority of the increase can be attributed to \$18.3 million in authority for the state Superfund Program, \$3.6 million for the Air Quality Program, \$2.0 million for the Public Water Supply Program, and \$2.0 million for hard rock reclamation. The remainder is attributable to biennial increases in junk vehicle grants, solid waste management, the major facility siting act, and general agency operations funded with natural resource RIT funds.

Language and Statutory Authority

“The department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving loan programs and to increase state special revenue by a like amount within the special administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.”

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“For other program purposes”

The phrase ‘for other program purposes’ may allow the agency greater discretion to use the funds than the legislature would like to allow. The legislature may wish to consider replacing that phrase with ‘used for other purposes as authorized in law providing for the distribution of funds’.

Agency Issues*Resource Indemnity Trust*

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests that the legislature provide adequate remedies for environmental protection from degradation. It specifically requires “all lands disturbed by the taking of natural resources shall be reclaimed”, and requires the existence of a resource indemnity trust (RIT) fund for that purpose, to be funded by taxes on the extraction of natural resources.

The Constitution further states, “The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000) guaranteed by the state against loss or diversion.” The state Constitution requires a trust, but does not require the trust to be funded. The legislature utilized certain natural resource extraction tax proceeds as a revenue source for the trust. In February of 2002, the Governor certified that the balance of the trust had exceeded the \$100 million threshold. Tax proceeds previously directed to the RIT have been re-directed by the legislature ever since.

Accounts Receiving RIT Related Revenue

The biennial executive budget contains \$26.2 million in RIT related funding to support a number of natural resource related activities from a number of related accounts. The department is the largest recipient of these funds.

The following discusses the accounts and the current uses. From those accounts appropriations are made by the legislature to support natural resource agencies and activities. The major accounts of importance are as follows:

- o Oil & Gas Production Mitigation Account – funds utilized by the Montana Board of Oil and Gas for properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations
- o Future Fisheries – funds provided to the Department of Fish, Wildlife and Parks to reclaim habitat and spawning areas of the bull and cutthroat trout
- o Hazardous Waste/CERCLA - funds provided to the Remediation Division of the department for the implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- o Environmental Contingency Account (ECA)- an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment
- o Environmental Quality Protection Fund (EQPF)- utilized by the Remediation Division to identify, investigate, negotiate, and prosecute individuals/entities to achieve remedial action or recover costs and damages. This fund is also referred to as the state Superfund
- o Water Storage Account – fund provided to the Water Resources Division of the Department of Natural Resources and Conservation for rehabilitation and major maintenance on state owned water projects
- o Ground water assessment account - funds groundwater monitoring and characterization studies completed by the Montana Bureau of Mines and Geology at Montana Tech in Butte
- o Orphan Share Account-used by the Department of Environmental Quality to fund the percent of remediation activities at a contaminated site that is attributable to a bankrupt or otherwise insolvent entity
- o Natural Resource Projects - provides grants and loans to enhance Montana’s renewable resources through projects that measurably conserve, develop, manage or preserve resources or to repair, reclaim, and mitigate environmental damage to public resources. These funds are managed by the Conservation and Development Division of the Department of Natural Resources and Conservation

- o Natural Resources Operations – funds operating costs of Montana’s natural resource agencies, including this department and the Department of Natural Resources and Conservation

RIT Distributions and Tax Proceeds

Prior to when the RIT trust met the constitutionally set \$100 million threshold, natural resources taxes were deposited to the trust. Since the threshold was met, the legislature has statutorily allocated those taxes: resource indemnity and ground water assessment, the metalliferous mine tax, and applicable portions of the oil & gas tax.

- o Resource Indemnity and Ground Water Assessment (RIGWA) are taxes paid by person(s) who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source. These taxes are distributed to a number of natural resource accounts. The first \$460,630 is deposited into the Superfund debt service account and the second \$366,000 is deposited into the ground water assessment account. The remaining funds are distributed 50 percent into the reclamation and development grant program account and any remaining funds to the orphan share account.
- o The metalliferous mine tax is paid by persons engage in mining of gold, silver, copper, lead and other metals or precious or semiprecious stones. Seven percent of this tax is deposited to the natural resources operations fund.
- o A portion of oil and gas production taxes are used for natural resource activities. This portion is distributed 2.99 percent to the orphan share account and 1.45 percent each to the natural resources operations and the natural resources project funds.

RIT Distributions –Interest Allocations

Allocations of RIT interest earnings are not restricted by the constitution. The legislature has chosen to directly and indirectly allocate interest for a number of purposes.

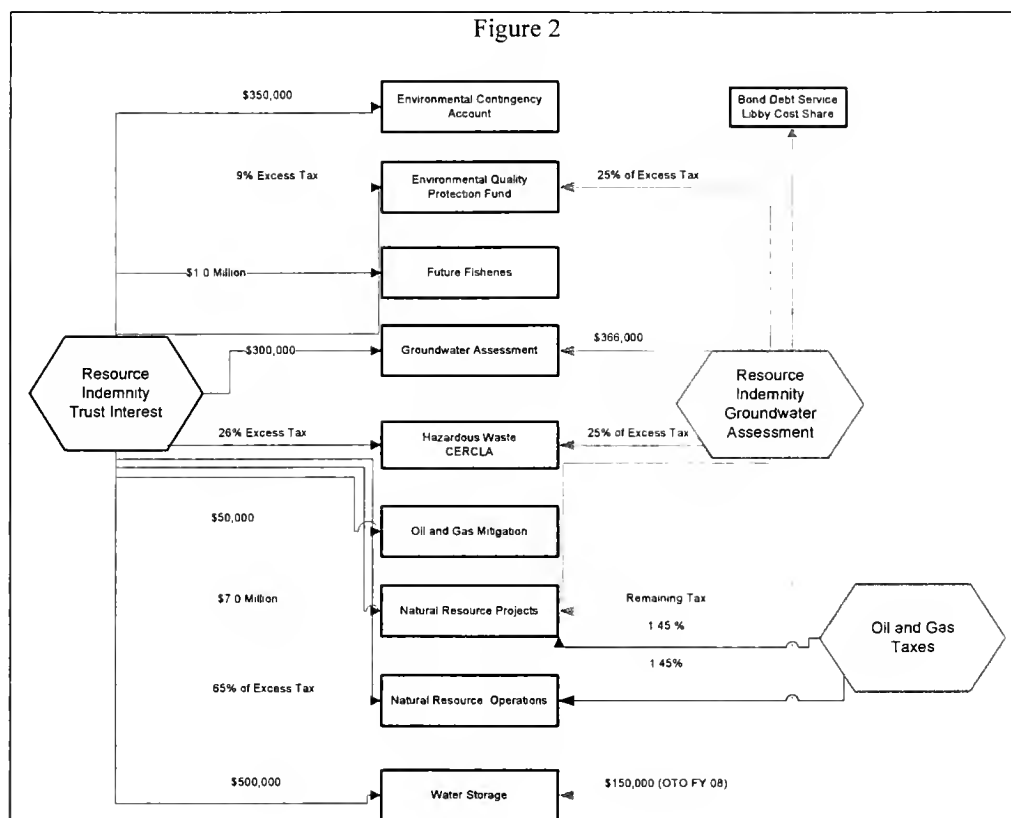
Direct Allocations: 15-38-202 MCA directs where the interest from the RIT is allocated. Direct allocations are made to a number of sources. Allocations to the oil and gas production mitigation account (\$50,000) and the water storage account (\$500,000) are made at the beginning of the biennium. Allocations to the natural resources projects fund (\$3.5 million), ground water assessment account (\$0.3 million), future fisheries fund (\$0.5 million) and the environmental contingency account (\$175,000) are made on an annual basis.

Indirect Allocations: After direct interest allocations are made, 15-38-202, MCA directs the remaining interest on a formula basis. The formula provides for 65 percent to the natural resources operations fund, 26 percent to the hazardous waste/CERCLA fund, and the remaining nine percent to the environmental quality protection fund.

The flow of taxes and interest into the related accounts is illustrated in figure 1.

Figure 1 Resource Indemnity Funding											
	Related Funds										
	02010	02022	02070	02107	02162	02216	02289	02472	02576	02577	
	Oil & Gas	Future Fish	HazWas	ECA	EQPF	Wa Sto	GRW	Orphan Share	Operations	Projects	
Beginning FY2009 Fund Balance	\$312,433	\$1,113,055	\$429,779	639,501	\$2,987,113	\$1,420,433	\$0	\$10,632,358	\$4,192,776	5,757,663	
RIT Interest		\$500,000	\$287,820	175,000	\$99,630	\$0	\$300,000		\$719,550	\$3,500,000	
Excess coal tax proceeds from debt service and STIP	10,000		10,000	15,000	293,711	150,000	366,000			587,422	
RIGWA			293,711								
Metal Mines Tax								3,869,509	1,210,000	1,876,518	
Oil and Gas Tax											
Other Income	67,000				3,750,000						
FY 2009 Total Revenues & Fund Balance	\$389,433	\$1,613,008	\$1,021,310	\$829,501	\$7,130,454	\$1,570,433	\$666,000	\$14,501,867	\$7,998,844	\$11,721,603	
FY 2009 Appropriations	(174,194)	(1,613,008)	(494,755)	0	(3,008,135)	(520,628)		(2,747,882)	(5,324,833)	(10,986,009)	
Transfers	25,000										
Reserved for Capital Appropriations											
Grant Reversion											
Projected Fund Balance Ending FY 2009	\$240,239	\$0	\$526,555	\$829,501	\$4,122,319	\$1,049,805	\$666,000	\$11,753,985	\$2,674,011	\$735,594	
Revenues for 2011 Biennium											
RIT Interest - Direct	50,000	1,000,000	436,280	350,000	151,020	500,000	600,000	-	1,090,700	7,000,000	
RIGWA			820,422		820,422		732,000			1,640,844	
Excess coal tax proceeds from debt service and Short Term Investment Pool - Interest	20,000		20,000		70,000	35,000			6,000		
Admin Fees						120,000			1,984,000		
Metal Mines Tax								6,801,250	3,298,265	3,298,265	
Oil and Gas Tax											
Agency Generated Revenues	100,000				7,500,000			(8,965,200)			
Transfers -LC294					8,965,020			\$9,590,035	\$9,052,976	\$12,674,703	
Projected Fund Balance Beginning FY 2010	\$410,239	\$1,000,000	\$1,803,257	\$1,179,501	\$21,628,781	\$1,704,805	\$1,998,000	\$9,590,035			
Appropriations for 2011 Biennium											
RRGL and RDGP Programs							(1,332,000)		(351,772)	(6,700,000)	
UM-Bureau of Mines									-		
DNRC - Centralized Services									(1,400,387)		
DNRC - Conservation and Resource Devel									(260,841)		
DNRC-Water Resources Division						(535,000)			(195,803)		
DNRC-Flathead Basin Commission									(200,000)		
DNRC - Board of Oil & Gas	(200,000)								(119,292)		
DNRC - Forestry/Trust Lands									(10,422)		
DEQ-Central Management									(29,339)		
DEQ-Planning, Prevention & Assistance			(184,893)						(4,159,286)		
DEQ-Enforcement					(20,641,305)				(2,100,569)		
DEQ-Remediation			(43,463)						-		
DEQ-Permitting & Compliance			(886,383)								
Future Fisheries		(1,000,000)									
Judiciary-Water Court											
Library Commission-State Library				(1,179,501)							
Governor's Office - Emergency Authority			(45,706)		(76,285)			(2,132)	(324,733)		
HB 13 Pay Plan				\$1,179,501	\$20,717,590	\$535,000	\$1,332,000	\$31,471	\$9,123,105	\$6,700,000	
Total Appropriations	(\$200,000)	(\$1,000,000)	(\$1,160,445)	\$0	\$911,191	\$1,169,805	\$666,000	\$9,558,564	\$70,129	\$5,974,703	
Ending Fund Balance	\$210,239	\$0	\$642,812	\$0	\$911,191	\$1,169,805	\$666,000	\$9,558,564	\$70,129	\$5,974,703	

Figure 2 represents the executive's requested use of the RIT interest and related funds. The figure provides the balance at the end of FY 2008, projected revenues and appropriations for FY 2009, and the biennial affect of revenues and the executive request for the 2011 biennium. The impact of a pay plan similar to the one granted by the passage and approval of HB 13 of the 2007 legislature has been considered also.



From examining the chart, the priorities for funding are clear. The largest appropriation of RIT related funds is \$20.6 million from the Environmental Quality Protection Fund (EQPF) for the purpose of the state Superfund Program. Other priorities are the Reclamation and Development (RDGP) and the Renewable Resources (RRGL) Grant and Loan Programs at \$6.7 million from the natural resources projects fund. The support of the Permitting and Compliance Division is also a priority at \$4.9 million in natural resources operations and the hazardous waste funds.

The figure also points out a projected ending fund balance of negative \$70,129 in the natural resources operations fund. This negative balance is after the removal of appropriations from this fund to the Centralized Services Division of the Department of Natural Resources and Conservation and the State Library. This condition of this fund represents some key issues related to RIT funding.

Natural Resources Operations Fund

The natural resources operation fund was created by HB 116 of the 2007 Legislature. The fund was created because agency operational costs were previously appropriated from other RIT funds that were established for other purposes. The utilization of other funds made it difficult for the legislature to track what was appropriated for on-the-ground work versus general agency operations. However, while the legislature can appropriate from one fund, the fund may not be healthy enough to meet the needs of natural resource agencies. This is demonstrated by two issues within this fund; 1) static funding; and 2) structural balance.

Static Funding

Revenues received from interest and applicable taxes are fairly constant and have little fluctuation. When the economy falters the interest earned on the trust will be less than previous years. This affects the funding stream going to the related funds. The programs that receive revenues from the RIT related funds are also supported by other funding sources such as coal severance funds, operating fees, and the general fund. As the cost of providing services rises, the RIT related funds will not rise at the same rate, if they rise at all.

The executive budget contains two funding switches from the operations fund to adjust for the decreased revenues. In the Department of Natural Resources and Conservation the executive is requesting a switch of \$1.4 million with coal tax severance funds. The other funding switch is for the Natural Resources Information System (NRIS) in the State Library, which replaces \$502,802 with general fund. The impacts of the funding switches are included in the summary table.

Structural Balance

A structurally balanced account expends resources at a level equal to revenues. The natural resources operations fund is not structurally balanced. The beginning FY 2010 fund balance is estimated at \$9.0 million and requested appropriations, with an estimated impact of the pay plan, are \$9.1 million. This results in an ending fund balance of a negative \$70,129. This balance does reflect the funding switches addressed earlier. As stated, as of the time of this writing the Governor had not proposed a specific pay plan. If the proposed plan is lower than estimated, the negative ending fund balance could be eliminated.

Options:

The natural resources operations fund is over appropriated and not structurally balanced. The legislature has the following options to address these issues:

- o Adjust appropriation levels to reflect the estimated revenues
- o Direct the executive to apply pay plan increases to non-RIT funding sources
- o Require agencies utilizing fee revenue to justify the need for RIT funds over raising fees
- o Request legislation to transfer in sufficient resources from another RIT funding source to cover the shortfall for this biennium

Direct Operational Issues

In addition to the issue related to the natural resources operations fund, there are additional issues relating to program operations. These include the revenue distribution to the environmental contingency account (ECA), the utilization of orphan share funds, and the status of the environmental quality protection fund (EQPF).

1. Figure 1 includes a distribution of \$350,000 of RIT interest to the ECA. The passage of HB 116 by the 2007 Legislature included language to terminate this allocation and restore a biennial allocation of \$175,000. After passage and approval, an error in the termination date was discovered. LC 607 has been requested to fix the error. If this legislation passes, the ECA will have approximately \$1.0 million available to respond to emergent or imminent threats to the environment, rather than the \$1.17 million allocated in the executive budget.
2. The Orphan Share Program was established to provide a means for determining the share of remediation costs of a defunct party. The fund pays for the costs of the allocation process and then pays for the defunct party's share of the remediation as established by that process. The executive is not seeking any authority for this purpose, even though there are sites that have been approved for orphan share funding. Instead, the executive is seeking to transfer \$8.9 million of funds from the orphan share to the EQPF as the state share of the responsibility for clean up costs at the KRY remediation site. This transfer is contingent on the passage and approval of LC 294.
3. The executive is seeking \$20.6 million in authority from the environmental quality protection fund (EQPF) for the purpose of accelerating site clean up in Montana, of which \$12.1 million is for one-time only activity. The EQPF (state Superfund) is a revolving fund where the expenditures at these sites are cost recoverable. Those recoveries are deposited back to the EQPF for further cleanup activities. The agency estimates that \$3.5 million per year will be

recovered from responsible parties. If these revenues do not materialize, the department will have to adjust expenditures accordingly, as the department will have authority but will lack the necessary cash to complete activities on the ground.

Legislative Options

The operational issues raised can be addressed by implementing or increasing legislative oversight of department activities. The legislature may wish to consider one or more of the following:

To address the orphan share issues the legislature may wish to:

- o Inquire about the status of the projects that have already been approved for orphan share funding, including when funding will be required
- o Request the agency determine the potential impact of state costs of remediation of the KRY site on the orphan share

To address the EQPF issue the legislature may wish to:

- o Inquire about how the department will prioritize activities if the cost recovery revenues are not obtained
- o Request the agency provide performance reporting to Legislative Finance Committee regarding cost recovery and the potential impact to on-the-ground activities

The operational and structural issues associated with the RIT will change at each step of the appropriations process due to the complex funding structure. To assure that more issues do not arise, the legislature may wish to review the status of RIT funds after executive action throughout the process. If this is not completed, the final funding plan may not be feasible.

The Clean Air Act

The federal Clean Air Act provides for the amount of pollutants that can be emitted from various sources and the consequences for entities that are unable to meet the emission requirements. To manage the amount of pollution emissions the act provides that a permitting program be controlled by the states, because at the time of the passage of the act in 1990, 35 states already had permitting programs. The act also directs the state to utilize fees from permits to fund the program. If a state is unable to meet the requirements of the act, the Environmental Protection Agency (EPA) can take over the management of the program.

The department contends that there are not sufficient resources to ensure compliance with the state and federal clean air acts. A number of adjustments are being requested to potentially remedy this situation. These adjustments have a significant cost.

Figure 3 Department of Environmental Quality Utilization of Air Quality Fees (Fund 02001)				
Division	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Central Management	\$48,240	\$56,438	\$68,467	\$69,177
Planning, Prevention & Assistance	94,296	121,404	122,948	123,108
Enforcement	48,902	52,087	144,140	145,379
Permitting & Compliance	<u>3,304,418</u>	<u>3,487,645</u>	<u>4,889,037</u>	<u>4,937,947</u>
Total	<u>\$3,495,856</u>	<u>\$3,717,574</u>	<u>\$5,224,592</u>	<u>\$5,275,611</u>

During FY 2008, the department expended \$3.5 million in air quality permit fees; the Governor proposes spending \$5.2 million in FY 2010. This represents an increase in expenditures of 53 percent. The breakdown of this change is summarized in Figure 3.

The adjustments creating this increase are summarized in Figure 4.

Figure 4 Department of Environmental Quality Decision Packages Utilizing Air Quality Fees			
Decision Package	FY 2010	FY 2011	Biennial Total
Statewide Present Law Adjustments - All Programs	\$861,099	\$896,392	\$1,757,491
DP 1001 Attorney Pool	5,018	5,484	10,502
DP 2005 Planning, Prevention & Assistance Base Adjustment	2,614	2,778	5,392
DP 3002 Enforcement Base Adjustment	9,639	10,580	20,219
DP 5002 Air On-line Permit & Compliance Reporting - OTO	75,000	75,000	150,000
DP 5003 Air Regulatory Assistance	250,000	250,000	500,000
DP 5004 Area Source MACT Registration	130,820	129,895	260,715
DP 5006 Air Resources Management Bureau Student Intern Funding	94,946	94,946	189,892
DP 5008 Air Program - Field Office Vehicles	11,029	12,041	23,070
DP 5018 Permitting & Compliance Base Adjustment	288,607	302,705	591,312
Total	\$1,728,772	\$1,779,821	\$3,508,593

The legislature does not directly establish fees for the program but the level of appropriation is the driving force in setting the fees. The higher the level of appropriation, the greater the possibility of fee increases. Department staff calculates the air quality permit fees based on anticipated workload and the amount of fee revenue appropriated by the legislature. Those fees are adopted through the rule making process and require final approval by the Board of Environmental Review (BER) prior to implementation.

The issue for the legislature is to determine what adjustments are necessary to encourage the program to operate within state and federal guidelines keeping in consideration the potential impact on fees. Each decision package discussed in the Permitting and Compliance section provides options for legislative consideration. The common element in those discussions is the need for clear performance measures and the potential use of a reporting requirement to assure progress is being made toward meeting statutory and federal requirements.

Background Information for Decision Packages

The decision packages contained in the executive request are often related to a particular regulatory issue, court decree, or site remediation. In order for the legislature to contemplate the appropriate level of resources, background information may need to be acquired. For example, in the Remediation Division, the executive requests funds for at least four specific clean up sites that are at different points of the remediation process. If the legislature is not provided with the information to delineate where a project is at, where it should be in the next biennium, it is difficult to assure that the appropriate level of resources are being asked for and adjusted as necessary.

This is also true in the executive's requests for base adjustments in the Planning, Permitting and Assistance, and Permitting and Compliance Divisions. The decision packages (DP 2005 and DP 5018) contain \$6.1 million in biennial adjustments but lack detail to determine which programs will receive what funds for what purpose. These requests essentially ask the legislature to provide funding without determining purpose or need. The department was asked to provide the information for inclusion in the budget analysis but they did not comply. This issue is further discussed in the corresponding program narrative.

There are also instances in the executive budget where technical terms and jargon are used that only those with intimate knowledge of the programs would understand. This includes the total maximum daily load process, maximum available control technology for the air program, and atmospheric loading for impaired waters are raised in the budget. Descriptive information was provided where readily available; however, a portion of this information may still need to be acquired from the agency during the committee's review of its budget.

The legislature may wish to direct the agency to explain scientific concepts in plain English as well as provide an appropriate level of information to properly align resources with program goals and objectives. Without clear

information, the legislature runs the risk of not providing the appropriate level or kind of resources to the department, hampering the department's mission.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	10.00	10.00	10.00	10.00	10.00	10.00	0.00	0.00%
Personal Services	733,384	797,259	877,272	879,902	1,530,643	1,757,174	226,531	14.80%
Operating Expenses	1,182,701	1,221,781	1,583,182	1,591,857	2,404,482	3,175,039	770,557	32.05%
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$1,916,085	\$2,019,040	\$2,460,454	\$2,471,759	\$3,935,125	\$4,932,213	\$997,088	25.34%
General Fund	373,992	411,306	436,468	438,700	785,298	875,168	89,870	11.44%
State Special	1,202,096	1,362,540	1,517,832	1,523,009	2,564,636	3,040,841	476,205	18.57%
Federal Special	339,997	245,194	506,154	510,050	585,191	1,016,204	431,013	73.65%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$1,916,085	\$2,019,040	\$2,460,454	\$2,471,759	\$3,935,125	\$4,932,213	\$997,088	25.34%

Program Description

The Central Management Program consists of the Director's Office, a Financial Services Office, and an Information Technology Office. It is the organizational component of DEQ responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The Director's Office includes the director's staff, the deputy director, an administrative officer, a public information officer, a centralized legal services unit, and a centralized personnel office. The Financial Services Office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The Information Technology Office provides information technology services support to other divisions.

Program Highlights

Central Management Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The proposed biennial budget is 25 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments and restoration of authority for the Montana Environmental Policy Act (MEPA) ◆ The executive requests an increase in the agency indirect rate ◆ The division provided program goals and objectives 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The employee recruitment and retention goals are not measurable due to a lack of specific criteria and time frames 	

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- o Consolidate multiple revenue/accounts receivable/billing/cash processes (RAR) into one uniform system with standardized and more efficient processes administered by the department's Office of Financial Services. Optimize the subdivision review process for efficiency, quality of service, and timeliness by utilizing on-line, web-based technology while maintaining environmental protection standards
 - Identify "as is" processes and establish a timeline for completion of work flow documentation for each process within project scope. Provide project owners with monthly reports comparing work progress to scheduled timeline
 - Schedule conversion, testing and implementation of standard processes for identified systems
 - Compare average processing time for billing, fee collection, cost recovery, and revenue recognition before and after new system implementation
 - Evaluate and report effectiveness of online fee collection and cost recovery process
 - Assess project cost-effectiveness by documenting achieved benefits and improvements compared to development costs

Success: The division was able to procure the accounts receivable module for SABHRS for this project. This produced two unanticipated results: 1) the module will be available for any state agency to utilize; and 2) the on-going support and maintenance costs will be covered through ITSD assessments to all units.

Challenges: The success of fee collection will not be known until the system is up and operating.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- o Enhance recruitment and retention of department staff
 - Develop, implement, and maintain a pay system competitive with relevant markets, including other state agencies. Develop and implement performance and competency components within the pay system
 - Develop and implement career ladder progressions within at least four high priority areas with specific recruitment and retention challenges
 - Develop education, training, and other workforce development policies and implement within at least four high priority areas with specific recruitment and retention challenges
 - Continue to develop and implement non-monetary work environment enhancements such as flexible work schedules, tele-work opportunities, and employee recognition

LFD ISSUE

Recruitment and Retention

This goal addresses the long-standing issue of department workforce recruitment and retention. This issue is often the primary reason for the department's other performance issues, such as meeting deadlines for permits, water quality plans and enforcement actions. In FY 2009 the department implemented new strategies to improve recruitment and retention. The provided objectives are not specific and measurable, and the four high priority areas have not been identified. Consequently, the legislature cannot discuss resource needs in relation to retention and recruitment of DEQ employees. In addition, the reader is left assuming that all of these will be completed within the biennium. In knowing when the objectives are to be complete, there is a greater chance to measure whether the department has been successful at recruitment and retention.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Central Management Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 373,992	19.5%	\$ 436,468	17.7%	\$ 438,700	17.7%
01100 General Fund	373,992	19.5%	436,468	17.7%	438,700	17.7%
02000 Total State Special Funds	1,202,096	62.7%	1,517,832	61.7%	1,523,009	61.6%
02075 Ust Leak Prevention Program	62,697	3.3%	57,056	2.3%	57,648	2.3%
02097 Environmental Rehab & Response	5,587	0.3%	104,000	4.2%	104,000	4.2%
02157 Solid Waste Management Fee	33,632	1.8%	45,645	1.9%	46,118	1.9%
02201 Air Quality-Operating Fees	48,204	2.5%	68,467	2.8%	69,177	2.8%
02202 Asbestos Control	8,682	0.5%	18,258	0.7%	18,447	0.7%
02204 Public Drinking Water	6,729	0.4%	9,129	0.4%	9,224	0.4%
02278 Mpdcs Permit Program	34,661	1.8%	47,927	1.9%	48,424	2.0%
02418 Subdivision Plat Review	23,996	1.3%	36,516	1.5%	36,895	1.5%
02542 Mt Environ Policy Act Fee	903,526	47.2%	1,030,416	41.9%	1,031,615	41.7%
02576 Natural Resources Operations Ssr Fu	44,623	2.3%	59,338	2.4%	59,954	2.4%
02845 Junk Vehicle Disposal	27,804	1.5%	38,798	1.6%	39,201	1.6%
02954 Septage Fees	1,955	0.1%	2,282	0.1%	2,306	0.1%
03000 Total Federal Special Funds	339,997	17.7%	506,154	20.6%	510,050	20.6%
03046 05 Exchange Network Grant	-	-	-	-	-	-
03067 Dsl Federal Reclamation Grant	13,434	0.7%	-	-	-	-
03155 2004 Network Exchange Grant	172	0.0%	-	-	-	-
03228 L.U.S.T./Trust	55,161	2.9%	63,902	2.6%	64,566	2.6%
03232 Fy08 Exchange Network Grant	-	-	100,000	4.1%	-	-
03262 Epa Ppg	133,173	7.0%	-	-	-	-
03385 Epa/One-Stop Grant	15,602	0.8%	-	-	-	-
03433 Epa Ppg Fy10-11	-	-	180,296	7.3%	182,167	7.4%
03436 Nps 04 Staffing & Support	-	-	-	-	13,835	0.6%
03437 Sep Base 2004	8,661	0.5%	11,411	0.5%	11,530	0.5%
03442 Fy09 Exchange Network Grant	-	-	33,612	1.4%	159,238	6.4%
03691 Nps Staffing/Support	11,860	0.6%	13,693	0.6%	-	-
03812 Epa 106 Water Grant	14,475	0.8%	-	-	-	-
03815 Dw Srf 09 Grant	-	-	22,822	0.9%	-	-
03816 Doi Osm A&E Grant	-	-	22,822	0.9%	23,059	0.9%
03818 Dw Srf 10 Grant	-	-	-	-	23,059	0.9%
03952 2006 Implementation Grant	87,459	4.6%	57,596	2.3%	32,596	1.3%
06000 Total Proprietary Funds	-	-	-	-	-	-
06509 Deq Indirects	-	-	-	-	-	-
Grand Total	\$ 1,916,085	100.0%	\$ 2,460,454	100.0%	\$ 2,471,759	100.0%

The majority of the functions in the division are funded with non-budgeted proprietary funds, that are not appropriated through HB 2. The proprietary funding is based upon a negotiated indirect rate with the federal Environmental Protection Agency (EPA). The indirect rate is assessed against funding for all personal services, temporary services, and work-study projects and contract services within each division, and transferred to the Central Management Program to fund operating costs. A further discussion is included in the proprietary rate section.

Appropriated funds consist of:

- o General fund for support of the Board of Environmental Review and general operating costs
- o State special revenue, predominantly Montana Environmental Protection Act fees
- o Numerous small federal grants

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	373,992	373,992	747,984	85.47%	1,916,085	1,916,085	3,832,170	77.70%
Statewide PL Adjustments	45,429	46,142	91,571	10.46%	144,582	147,492	292,074	5.92%
Other PL Adjustments	17,047	18,566	35,613	4.07%	399,787	408,182	807,969	16.38%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$436,468	\$438,700	\$875,168		\$2,460,454	\$2,471,759	\$4,932,213	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					180,440					183,181
Vacancy Savings					(36,552)					(36,663)
Inflation/Deflation					694					974
Total Statewide Present Law Adjustments					\$144,582	\$147,492				
DP 1001 - Non Proprietary Operations Adjustments	0.00	17,047	199,475	183,265	399,787	0.00	18,566	203,433	186,183	408,182
Total Other Present Law Adjustments										
	0.00	\$17,047	\$199,475	\$183,265	\$399,787	0.00	\$18,566	\$203,433	\$186,183	\$408,182
Grand Total All Present Law Adjustments					\$544,369	\$555,674				

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Relative to the 2008 market survey, the current market rate is 94.22 percent, a reduction from the 2006 market survey of 106 percent
- **Vacancy** – The agency did not provide program specific information
- **Legislatively applied vacancy savings** – The agency did not provide program specific information
- **Pay Changes** – 16 employees, 25 percent of the division, are eligible for full retirement with an estimated payout of \$188,231

DP 1001 - Non Proprietary Operations Adjustments - This operations adjustment request is for \$399,787 in FY 2010 and \$408,182 in FY 2011 in general, state special, and federal special revenue. In addition adjustments are requested for agency indirect cost rates, staffing costs related to vacant positions, and replacement of personal computers in accordance with standard replacement schedules over the course of the biennium.

**LFD
COMMENT**

The adjustments include:

- o \$715 per year for the per diem associated with the Board of Environmental Review (general fund)
- o \$71,480 in FY 2010 and \$78,123 in FY 2011 for legal fees, staffing costs and indirects for the attorney pool (23 percent general fund, 43 percent state special revenue and 34 percent federal special revenue)
- o \$168,980 in FY 2010 and \$170,106 in FY 2011 for contracted services, computer equipment, staffing costs and indirects for Montana Environmental Protection and Environmental Rehabilitation and Response activities (state special revenue)
- o \$158,612 in FY 2010 and \$159,238 in FY 2011 for contract services and indirects for management of federal grant activities (federal special revenue)

Proprietary Program Description*Agency Indirect Rate***Program Proposed Budget**

The following summarizes the total executive budget proposal for this program by year.

Department of Environmental Quality					
Agency Indirects - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2011 Adjustments	FY2011 Total
FTE	55.50	0.00	55.50	0.00	55.50
61000 Personal Services	3,240,091	489,227	3,729,318	500,269	3,740,360
62000 Operating Expenses	2,356,892	480,517	2,837,409	366,528	2,723,420
6300 Equipment	12,673	0	12,673	0	12,673
Total Costs	<u>\$5,609,656</u>	<u>\$969,744</u>	<u>\$6,579,400</u>	<u>\$866,797</u>	<u>\$6,476,453</u>

Program Description

The department has one proprietary fund, which is an internal service fund used to account for the department's indirect cost activity.

The customers of this program are all divisions and employees of the department. Use of these services is mandated by agency policies and procedures. There are no alternative sources for the Central Management Program as a whole. The department contracts for legal services whenever it is cost effective to do so, to obtain specific expertise for a case, or when legal jurisdiction of the case requires an attorney licensed in that state. The department contracts for information technology database development and for hosting of the department's enterprise database.

The centralized legal services unit has 3.00 FTE that are funded by the internal service fund, two attorneys and one paralegal. This staff provides the administration, management and planning for the legal services unit, and specific duties for department programs, including legislation, rule making, enforcement actions and contract review. The remainder of this unit is funded by direct charges to the programs and projects requiring the legal work.

Funding

The funding comes from the budgets of all other divisions. The sources are in proportion to that division's budget.

Agency Indirects - Estimated Funding			
Payment Funding	Base	FY 2010*	FY 2011*
General Fund	\$677,448	\$855,322	\$841,939
State Special Revenue	2,453,902	2,960,730	2,914,404
Federal Special Revenue	<u>2,268,592</u>	<u>2,763,348</u>	<u>2,720,110</u>
Total Payments	<u>\$5,399,942</u>	<u>\$6,579,400</u>	<u>\$6,476,453</u>
* estimated based on funding percentages			

Program Narrative*Revenues*

Funding is collected from all non-proprietary sources expended within the department. The department anticipates negotiating an indirect cost rate with the U.S. Environmental Protection Agency (EPA) of approximately 24 percent on personal services and 4 percent on operating expenses in FY 2010 and FY 2011.

Expenses

The major cost drivers within this program are personal services costs and fixed costs. Additional costs for overtime are incurred when workload changes, such as upgrades to the state accounting system (SABHRS), a special legislative session, and increased monitoring and oversight of budgets due to revenue shortfalls. Fixed costs continue to be a significant cost increase to the proprietary fund. The cost of providing support services is directly related to the number of staff served and the number of contracts and payments processed. Non-typical and one-time expenses are backed out of the cost of providing services before calculating the indirect rate. Salaries are constant throughout the fiscal year, except during fiscal year end, executive budget preparation, and legislative session. Supplies are purchased on an as needed basis, except during peak times noted above.

2011 Biennium Report on Internal Services Funds				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$900,759	\$367,541	\$195,257	\$997,183
Operating Expenses	5,775,499	5,753,729	6,750,118	6,647,273
Operating Revenues				
Revenue from Fees	3,273,141	3,170,563	4,297,825	4,319,223
Revenue from Federal Recovery	2,014,879	2,398,882	3,242,219	3,258,362
Other Revenues	<u>23,773</u>	<u>12,000</u>	<u>12,000</u>	<u>12,000</u>
Total Operating Revenues	<u>5,311,793</u>	<u>5,581,445</u>	<u>7,552,044</u>	<u>7,589,585</u>
Adjustments	(69,512)	0	0	0
Operating Gain (Loss)	<u>(533,218)</u>	<u>(172,284)</u>	<u>801,926</u>	<u>942,312</u>
Ending Working Capital Balance	<u>\$367,541</u>	<u>\$195,257</u>	<u>\$997,183</u>	<u>\$1,939,495</u>

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget approved by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Agency Indirects - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjust.	0.00	\$792,491	0.00	\$691,352
PL 1003 Operations Adjustments	0.00	163,649	0.00	163,649

DP 1004 Proprietary Operations Adjustment -. The operating adjustments requested are to pay for increases in non-state rent, and to replace personal computers over the course of the biennium and communications, travel and training budgets due to vacancies.

LFD COMMENT

The adjustments can be attributed to the following units:

- o \$4,900 each year for computers in the director's office
- o \$3,264 each for computers and in-state travel for the personnel office
- o \$3,360 each year for computers and education in the legal services unit
- o \$121,482 each year for increased rents, education and computers for the fiscal bureau
- o \$30,643 each year for travel, communications, education and computers for the office of information technology

New Proposals

Agency Indirects - New Proposals				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
DP 6101 Fixed Costs WC	0.00	\$13,604	0.00	\$11,796

DP 6101 - Fixed Cost Workers Comp Management Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Rates

For the 2011 biennium the following rates would generate revenue commensurate with costs as presented in the executive budget proposal. These rates are upper limits and will be negotiated with the U.S. Environmental Protection Agency.

Agency Indirect Rates				
Charge in Percentage	Actual	Actual	Proposed	Proposed
	2008	2009	2010	2011
Personal Services	22.50	21.00	24.00	24.00
Operating Expenditures	3.00	4.00	4.00	4.00

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	83.50	83.50	84.50	84.50	83.50	84.50	1.00	1.20%
Personal Services	4,852,495	5,182,638	5,902,348	5,926,940	10,035,133	11,829,288	1,794,155	17.88%
Operating Expenses	5,193,729	7,581,246	7,501,258	7,326,761	12,774,975	14,828,019	2,053,044	16.07%
Equipment & Intangible Assets	9,970	52,326	51,004	49,970	62,296	100,974	38,678	62.09%
Total Costs	\$10,056,194	\$12,816,210	\$13,454,610	\$13,303,671	\$22,872,404	\$26,758,281	\$3,885,877	16.99%
General Fund	2,873,851	2,954,048	3,019,170	3,024,607	5,827,899	6,043,777	215,878	3.70%
State Special	1,131,114	1,024,756	2,303,048	2,127,094	2,155,870	4,430,142	2,274,272	105.49%
Federal Special	6,051,229	8,837,406	8,132,392	8,151,970	14,888,635	16,284,362	1,395,727	9.37%
Total Funds	\$10,056,194	\$12,816,210	\$13,454,610	\$13,303,671	\$22,872,404	\$26,758,281	\$3,885,877	16.99%

Program Description

The Planning, Prevention, and Assistance Division consists of three bureaus: Technical and Financial Assistance; Water Quality Planning; and Air, Energy and Pollution Prevention. The division:

1. Finances construction and improvement of community drinking water and wastewater systems, and provides engineering review and technical assistance to Montana communities water infrastructure planners;
2. Assists small businesses in reducing emissions and complying with environmental regulations;
3. Monitors air and water quality conditions, assesses potential pollution problems, and aids industry to achieve cost effective compliance;
4. Assists communities to plan for energy, watershed, airshed, and solid and hazardous waste management;
5. Aids in development of water Total Maximum Daily Loads (TMDL);
6. Proposes rules and policy and develops environmental protection criteria;
7. Provides analysis to assess the cost effectiveness of environmental programs;
8. Finances energy saving retrofits of public buildings and renewable energy systems for homeowners and small businesses; and
9. Provides technical assistance and education to builders, homeowners and businesses on energy efficiency and renewable energy, indoor air quality, radon, recycling and solid waste reduction.

Program Highlights

Planning, Prevention & Assistance Major Budget Highlights
<ul style="list-style-type: none">♦ The proposed biennial budget is 17 percent higher than the 2009 biennial budget, primarily due to statewide present law and base budget adjustments♦ The executive requests 1.00 FTE to assist in providing technical assistance to waste water treatment facilities
Major LFD Issues
<ul style="list-style-type: none">♦ The base adjustment of \$3.0 million over the biennium is not broken down by program♦ The division submitted program goals without objectives

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Provide technical and financial assistance, including grants to local air quality agencies, watershed groups, and conservation districts, to develop and implement air quality and watershed management plans that enhance air and water quality
 - Complete approximately 450 wastewater and public drinking water technical assistance efforts
 - Close 10-15 drinking water, wastewater, and non-point source state revolving fund loans
 - Complete approximately 100 source water assessments and water quality protection technical assistance efforts
 - Provide technical assistance to 450 small businesses on pollution prevention, pollution control, and environmental management
 - Complete assessments to determine support of beneficial uses on 165 stream segments in FY 2008 and on 180 segments in FY 2009
 - Complete 184 water quality restoration plans/TMDLs (total maximum daily loads) in FY 2008 and 194 in FY 2009
 - Compile and submit the biannual Water Quality Integrated Report for federal review in FY 2009

Success: The program was able to meet the objectives in FY 2008 in wastewater and public drinking water technical assistance efforts to close 31 drinking water, wastewater, and non-point source state revolving fund loans, complete 190 source water assessments, and provide technical assistance to 398 businesses.

Challenges: There were 115 TMDLS completed and submitted to the EPA in FY 2008. The program reports they are on track to meet FY 2009 TMDL targets of 170 TMDLs, lowered from a previous target of 194. The TMDL schedule needs to remain at pace to meet the terms of the consent decree.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Manage wastewater system construction and improvement projects funded through the State and Tribal Agreement Grant
- Assist consumers and small businesses to reduce energy use and costs through technical assistance and education.
- Assist local stakeholders with the implementation of Total Maximum Daily Loads (TMDLs).

LFD ISSUE

The program submitted goals without corresponding objectives.

The legislature is unable to formulate appropriations policy or make future determinations about success based on the goals provided by this program. For example, if the division is not able to assist consumers with reduction in energy costs, how is the program going to know that? Is the program successful because of the work with consumers or because they reduce energy consumption across the state? The legislature may wish discuss with the program appropriate goals and objectives to assure that program resources are appropriately aligned with agency objectives.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table							
Plan Prevent & Assist.Div							
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011	
01000 Total General Fund	\$ 2,873,851	28.6%	\$ 3,019,170	22.4%	\$ 3,024,607	22.7%	
01100 General Fund	2,873,851	28.6%	3,019,170	22.4%	3,024,607	22.7%	
02000 Total State Special Funds	1,131,114	11.2%	2,303,048	17.1%	2,127,094	16.0%	
02070 Hazardous Waste-Cercla	88,908	0.9%	92,448	0.7%	92,445	0.7%	
02157 Solid Waste Management Fee	129,308	1.3%	134,908	1.0%	134,913	1.0%	
02174 Go Fy06 Spb Bond Proceeds	-	-	808,842	6.0%	612,749	4.6%	
02201 Air Quality-Operating Fees	94,296	0.9%	122,948	0.9%	123,108	0.9%	
02203 Arco	8,137	0.1%	8,132	0.1%	8,132	0.1%	
02206 Agriculture Monitoring	4,890	0.0%	8,685	0.1%	8,685	0.1%	
02223 Wastewater Srf Special Admin	408,853	4.1%	527,123	3.9%	530,436	4.0%	
02278 Mpdcs Permit Program	68,230	0.7%	97,873	0.7%	97,954	0.7%	
02316 Go94B/Ban 93D Admin	4,941	0.0%	12,459	0.1%	12,459	0.1%	
02388 Misc. State Special Revenue	22,440	0.2%	23,848	0.2%	23,848	0.2%	
02491 Drinking Water Spec Admin Cost	258,210	2.6%	258,242	1.9%	269,734	2.0%	
02555 Alternative Energy Rev Loan	40,328	0.4%	65,046	0.5%	70,143	0.5%	
02973 Univ System Benefits Program	2,573	0.0%	142,494	1.1%	142,488	1.1%	
03000 Total Federal Special Funds	6,051,229	60.2%	8,132,392	60.4%	8,151,970	61.3%	
03003 Tribal Air Quality Fund	1,486	0.0%	14,153	0.1%	14,153	0.1%	
03007 Doe Special Projects	2,769	0.0%	133,090	1.0%	132,654	1.0%	
03010 Nps 04 Projects	5,299	0.1%	-	-	-	-	
03014 Dw Srf Fy05 Grant	33,579	0.3%	-	-	-	-	
03033 Energy/Fsd	12,303	0.1%	12,298	0.1%	12,298	0.1%	
03070 106 Monitoring Initiative	110,680	1.1%	209,023	1.6%	209,014	1.6%	
03091 106 National Lakes Survey	92,343	0.9%	97,941	0.7%	97,935	0.7%	
03106 Nps 05 Projects	51,993	0.5%	-	-	-	-	
03149 Wpc Srf Fy06 Grant	-	-	209,613	1.6%	147,010	1.1%	
03161 Warner Amendment	3	0.0%	-	-	-	-	
03190 Amoco Oil Overcharge	4	0.0%	-	-	-	-	
03211 Exxon-Seep	3,497	0.0%	-	-	-	-	
03212 Stripper-Seep	5,409	0.1%	-	-	-	-	
03213 Stripper-Sbp	1,373	0.0%	-	-	-	-	
03216 Exxon-lcp	294	0.0%	-	-	-	-	
03217 Exxon Ees	44	0.0%	-	-	-	-	
03218 Diamond Shamrock-Admin.	2,889	0.0%	69,601	0.5%	69,600	0.5%	
03227 Fy06 Wetlands Grant	153,560	1.5%	437,832	3.3%	444,137	3.3%	
03229 Fy07 Wetlands Grant	(6)	0.0%	-	-	-	-	
03243 Dw Srf 06 Grant	85,650	0.9%	-	-	-	-	
03245 Wastewater Treatment Grant	24,460	0.2%	5,383	0.0%	67,742	0.5%	
03249 Nps Implementation Grant	349	0.0%	-	-	-	-	
03262 Epa Ppg	1,732,954	17.2%	-	-	-	-	
03289 Wastewater Operator Training	17,904	0.2%	17,899	0.1%	17,898	0.1%	
03307 Fy08 Wetlands Grant #15	-	-	-	-	-	-	
03311 Doe - Codes And Standards	14,505	0.1%	14,499	0.1%	14,499	0.1%	
03312 Doe-Rebuild America	22,139	0.2%	22,130	0.2%	22,129	0.2%	
03318 Mt School Lab Clean Up	15,450	0.2%	15,444	0.1%	15,443	0.1%	
03364 Fy06 Nps 319 Projects Grant	40,074	0.4%	-	-	-	-	
03433 Epa Ppg Fy10-11	-	-	1,904,540	14.2%	1,910,965	14.4%	
03436 Nps 04 Staffing & Support	-	-	-	-	1,390,984	10.5%	
03437 Sep Base 2004	318,333	3.2%	576,347	4.3%	576,550	4.3%	
03449 Npdes Epa Grant	1,138,150	11.3%	1,749,094	13.0%	1,749,002	13.1%	
03459 Doe Competitive Special Proj	17,275	0.2%	17,269	0.1%	17,268	0.1%	
03465 Doe Washington State Univ	10,700	0.1%	10,698	0.1%	10,697	0.1%	
03608 Nutrient Criteria Pilot Project	254,203	2.5%	-	-	-	-	
03676 Bureau Of Land Management	50,000	0.5%	49,970	0.4%	49,967	0.4%	
03691 Nps Staffing/Support	1,116,445	11.1%	1,384,812	10.3%	-	-	
03695 Srf St Tribal Rel Agrmt Grant	107,158	1.1%	298,121	2.2%	298,115	2.2%	
03704 Doe - Mt Wind Powering	6,786	0.1%	6,783	0.1%	6,783	0.1%	
03716 Doe - Omnibu	25,000	0.2%	24,990	0.2%	24,989	0.2%	
03812 Epa 106 Water Grant	470,937	4.7%	-	-	-	-	
03813 Dw Srf 08 Grant	-	-	745,687	5.5%	-	-	
03814 Epa Water Quality 205J	100,000	1.0%	99,940	0.7%	99,933	0.8%	
03815 Dw Srf 09 Grant	-	-	-	-	746,970	5.6%	
03817 Emap	5,238	0.1%	5,235	0.0%	5,235	0.0%	
Grand Total	\$ 10,056,194.00	100.0%	\$ 13,454,610.00	100.0%	\$ 13,303,671.00	100.0%	

The division is funded with general fund and a variety of state special and federal revenue sources. The division's

primary state special revenue funds are the fees collected for air quality permits and the interest from the investments made in community drinking water projects. The largest portion of federal funds is provided through the Environmental Protection Agency (EPA) programs, including the performance partnership grant and funds for non-point source water projects under the federal Clean Water Act. General fund is utilized for the TMDL program and for matching of federal grants.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	2,873,851	2,873,851	5,747,702	95.10%	10,056,194	10,056,194	20,112,388	75.16%
Statewide PL Adjustments	182,438	186,557	368,995	6.11%	997,781	1,021,795	2,019,576	7.55%
Other PL Adjustments	(37,119)	(35,801)	(72,920)	(1.21%)	1,492,896	1,511,683	3,004,579	11.23%
New Proposals	0	0	0	0.00%	907,739	713,999	1,621,738	6.06%
Total Budget	\$3,019,170	\$3,024,607	\$6,043,777		\$13,454,610	\$13,303,671	\$26,758,281	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,229,062					1,252,667
Vacancy Savings					(243,264)					(244,210)
Inflation/Deflation					11,983					13,338
Total Statewide Present Law Adjustments					\$997,781					\$1,021,795
DP 2005 - Planning Division Operations Adjustments	0.00	(37,119)	73,646	1,456,369	1,492,896	0.00	(35,801)	88,581	1,458,903	1,511,683
Total Other Present Law Adjustments	0.00	(\$37,119)	\$73,646	\$1,456,369	\$1,492,896	0.00	(\$35,801)	\$88,581	\$1,458,903	\$1,511,683
Grand Total All Present Law Adjustments					\$2,490,677					\$2,533,478

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Relative to the 2008 market survey, the current market rate is 89.8 percent, a reduction from the 2006 market survey of 105 percent
- **Vacancy** – The agency did not provide program specific information
- **Legislatively applied vacancy savings** – The agency did not provide program specific information
- **Pay Changes** – Nine employees, 11 percent of the division, are eligible for full retirement with an estimated payout of \$116,907

DP 2005 - Planning Division Operations Adjustments - This operations adjustment is for \$1,492,896 in FY 2010 and \$1,511,683 in FY 2011 in general, state special, and federal special revenue. The operating adjustment is requested to adjust for the receipt of federal grants, and related vacancy costs such as unspent travel, lab analysis work, supplies, and indirect costs.

**LFD
ISSUE****Proposal Lacks sufficient detail**

This proposal represents base adjustments to the three bureaus: Technical and Financial Assistance, Water Quality Planning, and Energy and Pollution Prevention; and one unit, the Financial Management and Budgeting Unit. The detail of the decision package is provided in the figure. From this information it is not possible to determine what bureau or unit is receiving what authority and for what purpose. The package also includes a request to switch general fund for a state special or federal special revenue source. However, the specific source is undeterminable.

The decision package, as written, provides a lump sum adjustment to the division to allocate as they determine necessary. It does not allow for the legislature to discuss with the agency the plan to implement the adjustment or why the adjustments are necessary. The LFD staff requested this information and the agency did not comply.

The legislature may wish to require that the agency segregate this base adjustment by bureau and work unit prior to taking any action on the package.

**Summary of Expenditures and Funding for DP 2005
Planning, Prevention and Assistance Division Base Budget Adjustment**

Category	FY 2010	FY 2011	Biennial
Expenditures			
62102 Consult & Prof Services	\$250,000	\$250,000	\$500,000
62106 Laboratory Testing	135,000	145,000	280,000
62136 It Consult & Prof Services	25,000	25,000	50,000
62165 Temporary Services	12,000	14,000	26,000
62169 Contracts With Non-Profits	426,561	432,241	858,802
62191 Printing/Other Provider	13,000	13,000	26,000
62236 Office Supplies/Central Stores	6,300	6,300	12,600
62241 Office Sup/Minor Equip-Non state	6,235	6,235	12,470
62245 Minor Equip - Comp Hardware	10,000	10,000	20,000
62249 Minor Software.	4,000	400	4,400
62370 Telephone Equip Chrg/D Of A	6,780	6,780	13,560
62385 Long Distance Chrg/D Of A	6,000	6,000	12,000
62401 In-State Personal Car Mileage	15,000	15,000	30,000
62404 In-State State Motor Pool	10,000	10,000	20,000
62407 In-State Meals	12,000	12,000	24,000
62408 In-State Lodging	20,959	20,959	41,918
62410 In-State Meals Overnight	1,000	1,000	2,000
62412 Out-Of-State Commercial Trans	10,000	10,000	20,000
62418 Out-Of-State Lodging	3,000	3,000	6,000
62809 Education/Training Costs	10,000	10,000	20,000
62817 Meetings/Conference Costs	8,000	8,000	16,000
628270 Deq Indirects - Operating	93,054	93,130	186,184
62827P Deq Indirects - Personal Serv	367,973	373,638	741,611
63100 Equipment	41,034	40,000	81,034
Total Expenditures	\$1,492,896	\$1,511,683	\$2,504,579
Funding			
01100 General Fund	(\$37,119)	(\$35,801)	(\$72,920)
02070 Hazardous Waste-Cercla	980	980	1,960
02157 Solid Waste Management Fee	2,984	2,994	5,978
02201 Air Quality-Operating Fees	2,614	2,778	5,392
02206 Agriculture Monitoring	1,987	1,987	3,974
02223 Wastewater Srf Special Admin	12,188	13,161	25,349
02278 Mpdcs Permit Program	2,781	2,868	5,649
02316 Go94B/Ban 93D Admin	3,693	3,693	7,386
02388 Misc. State Special Revenue	1,419	1,420	2,839
02491 Drinking Water Spec Admin Cost	0	11,500	11,500
02555 Alternative Energy Rev Loan	40,000	42,200	82,200
02973 Univ System Benefits Program	5,000	5,000	10,000
03003 Tribal Air Quality Fund	14,153	14,153	28,306
03007 Doe Special Projects	130,322	129,886	260,208
03070 106 Monitoring Initiative	49,220	49,220	98,440
03149 Wpc Srf Fy06 Grant	62,598	0	62,598
03218 Diamond Shamrock-Admin.	56,467	56,467	112,934
03227 Fy06 Wetlands Grant	239,000	239,000	478,000
03245 Wastewater Treatment Grant	0	62,359	62,359
03433 Epa Ppg Fy10-11	115,498	116,480	231,978
03436 Nps 04 Staffing & Support	0	278,882	278,882
03437 Sep Base 2004	14,719	14,945	29,664
03449 Npdes Epa Grant	250,000	250,000	500,000
03691 Nps Staffing/Support	278,182	0	278,182
03695 Srf St Tribal Rel Agrmt Grant	95,511	95,511	191,022
03813 Dw Srf 08 Grant	150,699	0	150,699
03815 Dw Srf 09 Grant	0	152,000	152,000
Total Funding	\$1,492,896	\$1,511,683	\$3,004,579

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2004 - Technical Assistance for Waste Water Treatment Sys										
20	1.00	0	98,897	0	98,897	1.00	0	101,250	0	101,250
DP 2051 - State Buildings Energy Conservation Program - BIEN (Requires Legislation)										
20	0.00	0	808,842	0	808,842	0.00	0	612,749	0	612,749
Total	1.00	\$0	\$907,739	\$0	\$907,739	1.00	\$0	\$713,999	\$0	\$713,999

DP 2004 - Technical Assistance for Waste Water Treatment Sys - The executive requests 1.00 FTE and \$98,897 in FY 2010 and \$101,250 in FY 2011 of state special revenue to provide on-site technical assistance and classroom training to help individuals, communities, and subdivisions to reduce pollution from wastewater treatment facilities.

**LFD
COMMENT**

The funding is from the administration portion of the wastewater revolving fund.

DP 2051 - State Buildings Energy Conservation Program - BIEN (Requires Legislation) - The executive requests \$808,842 for FY 2010 and \$612,749 for FY 2011 in state special revenue to operate the State Buildings Energy Conservation Program. This would provide for private contractors to analyze energy efficiency in state facilities and establish projects to reduce energy and water consumption.

**LFD
ISSUE****Required Legislation Canceled**

This decision package required passage and approval of legislation to establish a revolving loan account and appropriates funds to that account as a long-term funding mechanism for the State Buildings Energy Conservation Program. The draft of the proposed legislation has been canceled. As a consequence, there is not a need for the legislature to take action on this package.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	15.00	15.00	15.00	15.00	15.00	15.00	0.00	0.00%
Personal Services	873,315	912,383	1,032,647	1,035,291	1,785,698	2,067,938	282,240	15.81%
Operating Expenses	309,306	322,587	408,750	418,488	631,893	827,238	195,345	30.91%
Total Costs	\$1,182,621	\$1,234,970	\$1,441,397	\$1,453,779	\$2,417,591	\$2,895,176	\$477,585	19.75%
General Fund	520,386	530,452	619,511	624,836	1,050,838	1,244,347	193,509	18.41%
State Special	348,850	371,162	498,581	502,861	720,012	1,001,442	281,430	39.09%
Federal Special	313,385	333,356	323,305	326,082	646,741	649,387	2,646	0.41%
Total Funds	\$1,182,621	\$1,234,970	\$1,441,397	\$1,453,779	\$2,417,591	\$2,895,176	\$477,585	19.75%

Program Description

The Enforcement Division is responsible for formal enforcement of the public health and environmental protection laws and rules administered by the department. Division staff works with department attorneys and regulatory programs to draft administrative orders, calculate penalties, negotiate settlements, and monitor compliance with orders issued by the department. The division also manages a complaint clearinghouse that responds to and tracks citizen complaints and reports of spills or releases of materials.

Program Highlights

Enforcement Division Major Program Highlights
<ul style="list-style-type: none">◆ The proposed biennial budget is 20 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments◆ The executive requests a base adjustment for general program operations
Major LFD Issues
<ul style="list-style-type: none">◆ Objectives to the submitted goals could be improved by adding in baseline and target information

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee did not select a goal to monitor during the 2009 interim

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Ensure that the public and the regulated community maintain compliance with Montana laws and regulations through effective enforcement

- Investigate spills and citizen complaints that allege a violation of laws and regulations administered by DEQ to determine if a violation has occurred
- Respond to citizen complaints and spill reports within 30 days of receipt and resolve within 90 days
- Implement timely, consistent, and appropriate enforcement for laws and regulations administered by the department
- Issue administrative orders or file judicial complaints within 120 days of an approved enforcement request
- Manage enforcement cases and monitor compliance with department orders

**LFD
COMMENT**

The objectives do a good job at describing what needs to be accomplished by the bureau. The time portion of a few of the objectives needs to be established in order to determine success. Since this unit is responsible for addressing consumer complaints and filing orders, the related data would be an indicator of the amount of resources necessary to continue to do an adequate job versus a superb job.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Enforcement Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 520,386	44.0%	\$ 619,511	43.0%	\$ 624,836	43.0%
01100 General Fund	520,386	44.0%	619,511	43.0%	624,836	43.0%
02000 Total State Special Funds	348,850	29.5%	498,581	34.6%	502,861	34.6%
02075 Ust Leak Prevention Program	53,815	4.6%	43,242	3.0%	43,613	3.0%
02201 Air Quality-Operating Fees	48,902	4.1%	144,140	10.0%	145,379	10.0%
02202 Asbestos Control	36,093	3.1%	50,449	3.5%	50,882	3.5%
02204 Public Drinking Water	107,211	9.1%	115,312	8.0%	116,302	8.0%
02278 Mpdcs Permit Program	40,106	3.4%	39,639	2.8%	39,978	2.7%
02418 Subdivision Plat Review	31,753	2.7%	43,242	3.0%	43,613	3.0%
02576 Natural Resources Operations Ssr Fu	4,215	0.4%	5,189	0.4%	5,233	0.4%
02845 Junk Vehicle Disposal	26,755	2.3%	57,368	4.0%	57,861	4.0%
03000 Total Federal Special Funds	313,385	26.5%	323,305	22.4%	326,082	22.4%
03067 Dsl Federal Reclamation Grant	10,452	0.9%	-	-	-	-
03228 L.U.S.T./Trust	34,371	2.9%	30,557	2.1%	30,820	2.1%
03262 Epa Ppg	219,144	18.5%	-	-	-	-
03433 Epa Ppg FY10-11	-	-	223,849	15.5%	225,772	15.5%
03436 Nps 04 Staffing & Support	-	-	-	-	56,697	3.9%
03691 Nps Staffing/Support	49,418	4.2%	56,215	3.9%	-	-
03816 Doi Osm A&E Grant	-	-	12,684	0.9%	12,793	0.9%
Grand Total	\$ 1,182,621	100.0%	\$ 1,441,397	100.0%	\$ 1,453,779	100.0%

The division is funded with general fund and a variety of state special and federal revenue sources. The division's primary state special revenue funds are the fees collected for air, asbestos control, and discharge permits, as well as subdivision review fees. The largest percentage of federal funds is provided through the Environmental Protection Agency (EPA) programs, predominantly the performance partnership grant.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	520,386	520,386	1,040,772	83.64%	1,182,621	1,182,621	2,365,242	81.70%
Statewide PL Adjustments	57,700	58,981	116,681	9.38%	162,391	165,363	327,754	11.32%
Other PL Adjustments	41,425	45,469	86,894	6.98%	96,385	105,795	202,180	6.98%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$619,511	\$624,836	\$1,244,347		\$1,441,397	\$1,453,779	\$2,895,176	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					202,357					205,112
Vacancy Savings					(43,025)					(43,136)
Inflation/Deflation					3,059					3,387
Total Statewide Present Law Adjustments					\$162,391					\$165,363
DP 3002 - Enforcement Operations Adjustments	0.00	41,425	33,341	21,619	96,385	0.00	45,469	36,596	23,730	105,795
Total Other Present Law Adjustments	0.00	\$41,425	\$33,341	\$21,619	\$96,385	0.00	\$45,469	\$36,596	\$23,730	\$105,795
Grand Total All Present Law Adjustments					\$258,776					\$271,158

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** – Relative to the 2008 market survey, the current market rate is 87.9 percent, a reduction from the 2006 market survey of 108 percent
- o **Vacancy** – The agency did not provide program specific information
- o **Legislatively applied vacancy savings** – The agency did not provide program specific information
- o **Pay Changes** – Two employees, 13 percent of the division, are eligible for full retirement with an estimated payout of \$42,666

DP 3002 - Enforcement Operations Adjustments - The executive requests an operations adjustment for \$96,385 in FY 2010 and \$105,795 in FY 2011 in general fund, state, and federal special revenue. Adjustments are requested to restore FY 2008 authorized amounts for contracted services (lab analysis, paper service, temp services, publications and graphics), central stores, field equipment, postage and mailing, in-state travel, education and training, and indirect charges.

**LFD
COMMENT**

The allocation of the decision package is provided below.

Summary of Expenditures and Funding for DP 3002 Enforcement Division Base Budget Adjustment			
Category	FY 2010	FY 2011	Biennial
<u>Expenditures</u>			
62106 Laboratory Testing	8,024	8,024	16,048
62127 Other Legal Costs	589	589	1,178
62165 Temporary Services	896	896	1,792
62190 Printing/Publications & Graphics	911	911	1,822
62236 Office Supplies/Central Stores	1,422	1,422	2,844
62240 Inspection - Field Equipment/Supplies	3,615	3,615	7,230
62304 Postage & Mailing	3,369	3,369	6,738
62401 In-State Personal Car Mileage	128	128	256
62407 In-State Meals	396	396	792
62408 In-State Lodging	1,271	1,271	2,542
62410 In-State Meals Overnight	462	462	924
62809 Education/Training Costs	1,479	1,479	2,958
62827O Deq Indirects - Operating	1,974	1,974	3,948
62827P Deq Indirects - Personal Serv	71,849	81,259	153,108
Total Expenditures	<u>\$96,385</u>	<u>\$105,795</u>	<u>\$202,180</u>
<u>Funding</u>			
01100 General Fund	\$41,425	\$45,469	\$86,894
02075 UST Leak Prevention Program	2,892	3,174	6,066
02201 Air Quality-Operating Fees	9,639	10,580	20,219
02202 Asbestos Control	3,373	3,703	7,076
02204 Public Drinking Water	7,711	8,464	16,175
02278 MPDES Permit Progmra	2,651	2,909	5,560
02418 Subdivision Plat Review	2,892	3,174	6,066
02576 Natural Resources	347	381	728
02845 Junk Vehicle Disposal	3,836	4,211	8,047
03228 LUST Trust	2,043	2,243	4,286
03433 Epa Ppg Fy10-11	14,969	16,430	31,399
03436 Nps 04 Staffing & Support	0	4,126	4,126
03691 Nps Staffing/Support	3,759	0	3,759
03816 DOI - Office of Surface Mining - A& E	848	931	1,779
Total Funding	<u>\$96,385</u>	<u>\$105,795</u>	<u>\$202,180</u>

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	62.76	62.76	62.76	62.76	62.76	62.76	0.00	0.00%
Personal Services	3,339,092	3,753,584	4,164,819	4,177,801	7,092,676	8,342,620	1,249,944	17.62%
Operating Expenses	5,579,929	8,617,870	16,404,479	15,435,498	14,197,799	31,839,977	17,642,178	124.26%
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a
Capital Outlay	441,304	0	141,304	141,304	441,304	282,608	(158,696)	(35.96%)
Grants	0	20,000	0	0	20,000	0	(20,000)	(100.00%)
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	0	1,807	0	0	1,807	0	(1,807)	(100.00%)
Total Costs	\$9,360,325	\$12,393,261	\$20,710,602	\$19,754,603	\$21,753,586	\$40,465,205	\$18,711,619	86.02%
General Fund	0	0	0	0	0	0	0	n/a
State Special	2,473,360	3,300,952	13,145,259	12,155,392	5,774,312	25,300,651	19,526,339	338.16%
Federal Special	6,886,965	9,092,309	7,565,343	7,599,211	15,979,274	15,164,554	(814,720)	(5.10%)
Total Funds	\$9,360,325	\$12,393,261	\$20,710,602	\$19,754,603	\$21,753,586	\$40,465,205	\$18,711,619	86.02%

Program Description

The Remediation Division protects human health and the environment by preventing exposure to hazardous substances that have been released to soil, sediment, surface water, or groundwater. The division also ensures compliance with state and federal regulations. The division's responsibilities include: oversight, investigation, and cleanup activities at state and federal Superfund sites, and voluntary cleanup activities; reclamation of abandoned mine lands; implementation of corrective actions at sites with leaking underground storage tanks; and oversight of groundwater remediation at sites where improper placement of wastes has caused groundwater contamination. This division is divided into two bureaus:

1. The Hazardous Waste Site Cleanup Bureau (HWSCB) oversees or conducts the investigation and cleanup of sites contaminated by chemical spills, hazardous substances, and petroleum released by industrial and commercial operations other than mining. The bureau works with the Petroleum Tank Release Compensation Board for eligibility and reimbursement determinations and provides grants to local governments for compliance assistance.
2. The Mine Waste Cleanup Bureau (MWCB) is responsible for administering and overseeing remedial actions at historical mine sites, abandoned mines, ore-transport, and processing facilities. It also oversees the provisions of the federal Comprehensive Environmental Response and Liability Act (CERCLA or federal Superfund Program).

Program Highlights

Remediation Division Major Program Highlights	
♦	The proposed biennial budget is 86 percent higher than the 2009 biennial budget, primarily due to a \$18.6 million increase in authority for the state superfund program
♦	The executive is requesting \$13.1 million in one-time-only authority for: <ul style="list-style-type: none"> • \$9.0 million for remediation of the Reliance Refinery site • \$2.4 million for oversight to the cleanup of the Kalispell Pole & Timber, Reliance Refinery, and Yale Oil (KRY) combined site

<ul style="list-style-type: none"> • \$750,000 for closure activities related to the Basin Creek project • \$728,000 to accelerate remediation at various state superfund sites • \$260,000 for closure activities related to the Beal Mountain Site <p>♦ Base adjustments total \$929,000 primarily for contract services and travel costs</p>
Major LFD Issues
<ul style="list-style-type: none"> ♦ The program submitted goals without any corresponding objectives for which to measure progress toward the goal ♦ The requests for site specific authority should be accompanied with information regarding the stage of the process ♦ The long term costs of managing the KRY site are not addressed

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Conduct remedial action activities at the Kalispell Pole and Timber / Reliance Refinery / Yale Oil state superfund sites.
 - Complete proposed plan, solicit public comment, and complete record of decision with response to comments for the above facilities.

Successes: The record of decision was released in June 2008.

- To conduct the remedial investigations needed to fill previously identified data gaps so that the nature and extent of the contamination at the facility can be determined.
 - At the Upper Blackfoot Mining Complex, progress will be measured by the completion of the remedial investigation work plan, fieldwork, and remedial investigation report.
 - Contract task orders include specific reporting and financial requirements that will be overseen by department staff.
 - Department staff will also review draft contractor work products and provide necessary additional guidance for completion.

Successes: The department entered into a contract with Tetra Tech on August 7, 2007 for the completion of the remedial investigation.

LFD ISSUE

An assumption can be made that the remedial investigation was completed, as the executive is seeking funding for the next step in the process. See DP 4011.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Prioritize sites for cleanup actions by conducting initial sampling, field studies, or research and by evaluating potential impacts to public health and safety and the environment
- Recover costs for investigation and cleanup at sites with viable responsible parties by maintaining detailed records of work completed and costs incurred for that work, and billing the responsible parties for those costs
- Provide for public participation in the evaluation and selection of cleanup alternatives for sites with hazardous or deleterious substance releases by holding public meetings and soliciting comments on remedial plans and reports

**LFD
ISSUE**

The program submitted goals without corresponding objectives.

The legislature is unable to formulate appropriations policy or make future determinations about success based on the goals provided by this program. For example, if the division is not successful in recovering costs, future remediation work may be at risk as some programs, such as the state Superfund, are revolving funds and require continued receivables in order to maintain funding. If this occurs the legislature may not be able to provide the adequate remedies for the protection of the environment as required by the state constitution. The legislature may wish to discuss with the program appropriate goals and objectives to assure that program resources are appropriately aligned with agency objectives.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table

Remediation Division

Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ -	-	\$ -	-
01100 General Fund	-	-	-	-	-	-
02000 Total State Special Funds	2,473,360	26.4%	13,145,259	63.5%	12,155,392	61.5%
02058 Petroleum Storage Tank Cleanup	1,095,158	11.7%	1,378,801	6.7%	1,388,258	7.0%
02070 Hazardous Waste-Cercla	18,325	0.2%	21,675	0.1%	21,788	0.1%
02162 Environmental Quality Protecti	1,013,963	10.8%	10,316,299	49.8%	10,325,006	52.3%
02206 Agriculture Monitoring	5,251	0.1%	27,192	0.1%	27,237	0.1%
02438 Pegasus - Beal Mountain	1	0.0%	260,000	1.3%	-	-
02472 Orphan Share Fund	12,003	0.1%	14,618	0.1%	14,721	0.1%
02520 Fy06 Cercla Bond Proceeds	139,183	1.5%	902,985	4.4%	153,407	0.8%
02565 Lust Cost Recovery	130,007	1.4%	158,331	0.8%	159,438	0.8%
02577 Natural Resources Projects Ssr Fund	-	-	-	-	-	-
02676 Reclamation - Osm Trust Fund	-	-	-	-	-	-
02940 Pegasus - Basin	59,469	0.6%	65,358	0.3%	65,537	0.3%
03000 Total Federal Special Funds	6,886,965	73.6%	7,565,343	36.5%	7,599,211	38.5%
03036 Deq Federal Aml Grant	-	-	3,780,821	18.3%	3,795,302	19.2%
03158 Bim Interagency Agreement	21,173	0.2%	23,273	0.1%	23,338	0.1%
03221 Osm Coal Outcrop Fires	-	-	-	-	-	-
03228 L.U.S.T./Trust	575,813	6.2%	605,003	2.9%	609,953	3.1%
03257 Superfund Multi-Site	-	-	-	-	-	-
03259 Superfund Multi Site	1,270,236	13.6%	1,425,511	6.9%	1,429,643	7.2%
03260 Lust Special Project	-	-	-	-	-	-
03261 Ronan Lust Special Project	-	-	-	-	-	-
03262 Epa Ppg	164,700	1.8%	-	-	-	-
03433 Epa Ppg Fy10-11	-	-	124,901	0.6%	125,192	0.6%
03438 Brownsfield State Response	897,873	9.6%	882,957	4.3%	890,640	4.5%
03447 Deq-Federal Aml03 Grant	3,382,338	36.1%	-	-	-	-
03463 Mine Lease/Reclamation	415	0.0%	455	0.0%	456	0.0%
03468 Core Cooperative Grant-Fy05	164,905	1.8%	195,060	0.9%	196,084	1.0%
03663 Aml Special Projects	-	-	72,800	0.4%	72,800	0.4%
03721 Libby Asbestos/Troy	409,512	4.4%	454,562	2.2%	455,803	2.3%
Grand Total	\$ 9,360,325	100.0%	\$ 20,710,602	100.0%	\$ 19,754,603	100.0%

The Remediation Division is funded with a mix of state special and federal revenue sources. State special revenue comes from the \$0.0075 gas tax for petroleum tank cleanup, registration fees for underground storage tanks, and interest proceeds from the Resource Indemnity Trust deposited to the environmental quality protection, orphan share, and hazardous waste funds. Federal special revenue is derived from the federal Environmental Protection Agency (EPA) for Superfund oversight and various other activities, and the federal Office of Surface Mining for the Abandoned Mine Lands (AML) program.

Program Issue

Remediation Process

The process of remediating a site under state or federal cleanup guidelines requires many steps. An example is the state superfund or Environmental Cleanup Responsibility Act (CECRA) process. A remedial investigation is performed to determine the full nature and extent of the contamination. A risk assessment evaluates the threats posed to human health and the environment and allows for the development of site-specific cleanup levels. Then, a feasibility study evaluates the various options for cleaning up the site.

Following those actions a proposed plan to outline the preferred cleanup option for the site is developed. The public has the opportunity to comment on the preferred cleanup option. The determination of the final cleanup for a site is documented in its record of decision after the public comment period has ended.

The department and the responsible parties negotiate a consent decree to implement the cleanup. Engineering design documents are completed and the project is bid. Cleanup continues until contamination no longer poses an unacceptable risk to human health and the environment and compliance with all environmental laws is achieved.

The costs of cleanup are determined at each part of the process. As the project enters the bid stage, the on-the-ground costs of cleanup begins to be known. However, as actual dirt moving begins, the costs can change, as sometimes the on-the-ground situation is far worse or much better than anticipated. This is demonstrated in DP 4011.

The executive is seeking one time authority of \$13.1 million and a base adjustment of \$3.0 million for various cleanup activities. In contemplating the individual requests, the legislature may wish to inquire where a project is currently at in the remediation process, what accomplishments are expected, and the future costs to complete the clean up. Without this information the legislature would be unable to determine progress to site closure.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	9,360,325	9,360,325	18,720,650	46.26%
Statewide PL Adjustments	0	0	0	0.00%	814,660	829,057	1,643,717	4.06%
Other PL Adjustments	0	0	0	0.00%	6,020,803	5,047,714	11,068,517	27.35%
New Proposals	0	0	0	0.00%	4,514,814	4,517,507	9,032,321	22.32%
Total Budget	\$0	\$0	\$0		\$20,710,602	\$19,754,603	\$40,465,205	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				975,034					988,564	
Vacancy Savings				(172,561)					(173,109)	
Inflation/Deflation				12,187					13,602	
Total Statewide Present Law Adjustments				\$814,660					\$829,057	
DP 4002 - Remediation Operations Adjustments	0.00	0	277,717	169,086	446,803	0.00	0	292,349	191,365	483,714
DP 4005 - Basin Creek Mine Closure Plan BIEN - OTO	0.00	0	750,000	0	750,000	0.00	0	0	0	0
DP 4006 - Beal Mountain Mine Closure BIEN-OTO	0.00	0	260,000	0	260,000	0.00	0	0	0	0
DP 4009 - KRY Remediation Oversight - BIEN - RST - OTO	0.00	0	1,200,000	0	1,200,000	0.00	0	1,200,000	0	1,200,000
DP 4011 - Accelerated Remediation CECRA Sites BIEN/RST/OTO	0.00	0	364,000	0	364,000	0.00	0	364,000	0	364,000
DP 4012 - CECRA Accelerated Remediation Base Adjustment	0.00	0	3,000,000	0	3,000,000	0.00	0	3,000,000	0	3,000,000
Total Other Present Law Adjustments										
	0.00	\$0	\$5,851,717	\$169,086	\$6,020,803	0.00	\$0	\$4,856,349	\$191,365	\$5,047,714
Grand Total All Present Law Adjustments				\$6,835,463					\$5,876,771	

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Relative to the 2008 market survey, the current market rate is 89.84 percent, a reduction from the 2006 market survey of 109 percent
- **Vacancy** – The agency did not provide program specific information
- **Legislatively applied vacancy savings** – The agency did not provide program specific information
- **Pay Changes** – Eight employees, 13 percent of the division, are eligible for full retirement with an estimated payout of \$83,544

DP 4002 - Remediation Operations Adjustments - The executive requests \$446,803 in FY 2010 and \$483,714 in FY 2011 of state and federal special revenue authority. This is a net adjustment of decreased contract services and increased travel, training, and communication expenditures due to vacancies, use of student interns, and indirect cost adjustments.

LFD ISSUE

Multi-Unit Adjustment

This operating adjustment applies to three work units. The following table breaks the adjustment down by those units. While the adjustment was broken down by unit, the reasons for the adjustment were not provided. The legislature may wish to require that the agency segregate this base adjustment by unit and provide reasons for the adjustment prior to taking action on the package.

Summary of Expenditures and Funding for DP 2005			
Remediation Division Base Budget Adjustment			
Category	FY 2010	FY 2011	Biennial
Administration & Finance Section			
<u>Expenditure</u>			
61133 Termination Pay - Sick Leave	\$7,751	\$7,751	\$15,502
61134 Termination Pay - Vacation	15,503	15,503	31,006
62165 Temporary Services	2,717	2,717	5,434
62245 Minor Equip - Comp Hardware	11,725	11,725	23,450
62370 Telephone Equip Chrg/D Of A	1,007	1,007	2,014
62404 In-State State Motor Pool	425	425	850
62809 Education/Training Costs	47	47	94
62827O Deq Indirects - Operating	808	808	1,616
62827P Deq Indirects - Personal Serv	<u>58,859</u>	<u>64,274</u>	<u>123,133</u>
Total Expenditures	<u>\$98,842</u>	<u>\$104,257</u>	<u>\$203,099</u>
<u>Funding</u>			
02058 Petroleum Storage Tank Cleanup	\$21,740	\$22,783	\$44,523
02070 Hazardous Waste-Cercla	1,281	1,354	2,635
02162 Environmental Quality Protecti	14,384	15,200	29,584
03036 Deq Federal Aml Grant	34,370	36,319	70,689
03228 L.U.S.T./Trust	6,798	7,183	13,981
03433 Epa Ppg Fy10-11	3,216	3,398	6,614
03438 Brownsfield State Response	5,525	5,838	11,363
03468 Core Cooperative Grant-Fy05	<u>11,528</u>	<u>12,182</u>	<u>23,710</u>
Total Funding	<u>\$98,842</u>	<u>\$104,257</u>	<u>\$203,099</u>
Hazardous Waste Cleanup Bureau			
<u>Expenditure</u>			
62102 Consult & Prof Services	(\$398,920)	(\$400,012)	(\$798,932)
62116 Medical Services	5,666	5,666	11,332
62165 Temporary Services	76,733	76,733	153,466
62245 Minor Equip - Comp Hardware	28,800	28,800	57,600
62370 Telephone Equip Chrg/D Of A	4,167	4,167	8,334
62404 In-State State Motor Pool	4,500	4,500	9,000
62407 In-State Meals	750	750	1,500
62408 In-State Lodging	1,055	1,055	2,110
62809 Education/Training Costs	10,283	10,283	20,566
62827O Deq Indirects - Operating	21,785	21,741	43,526
62827P Deq Indirects - Personal Serv	<u>211,198</u>	<u>233,031</u>	<u>444,229</u>
Total Expenditures	<u>(\$33,983)</u>	<u>(\$13,286)</u>	<u>(\$47,269)</u>
<u>Funding</u>			
02058 Petroleum Storage Tank Cleanup	\$111,548	\$117,408	\$228,956
02070 Hazardous Waste-Cercla	8	8	16
02162 Environmental Quality Protecti	84,757	90,252	175,009
02206 Agriculture Monitoring	21,261	21,247	42,508
02472 Orphan Share Fund	950	1,023	1,973
02565 Lust Cost Recovery	10,291	11,077	21,368
03228 L.U.S.T./Trust	(56,899)	(53,699)	(110,598)
03259 Superfund Multi Site	4,169	4,488	8,657
03433 Epa Ppg Fy10-11	(65,590)	(65,864)	(131,454)
03438 Brownsfield State Response	(144,502)	(139,302)	(283,804)
03468 Core Cooperative Grant-Fy05	<u>70</u>	<u>70</u>	<u>140</u>
Total Funding	<u>(\$33,937)</u>	<u>(\$13,292)</u>	<u>(\$47,229)</u>

Continued			
Summary of Expenditures and Funding for DP 2005			
Remediation Division Base Budget Adjustment			
Category	FY 2010	FY 2011	Biennial
Mine Waste Cleanup Bureau			
<u>Expenditures</u>			
62102 Consult & Prof Services	\$300,000	\$300,000	\$600,000
62116 Medical Services	2,591	2,591	5,182
62165 Temporary Services	28,181	28,181	56,362
62169 Contracts With Non-Profits	70,000	70,000	140,000
62245 Minor Equip - Comp Hardware	12,600	12,600	25,200
62370 Telephone Equip Chrg/D Of A	2,725	2,725	5,450
62404 In-State State Motor Pool	7,500	7,500	15,000
62407 In-State Meals	1,113	1,113	2,226
62408 In-State Lodging	1,500	1,500	3,000
62809 Education/Training Costs	919	919	1,838
62827O Deq Indirects - Operating	157,255	157,255	314,510
62827P Deq Indirects - Personal Serv	97,560	108,359	205,919
64101 Land	(300,000)	(300,000)	(600,000)
Total Expenditures	<u>\$381,944</u>	<u>\$392,743</u>	<u>\$774,687</u>
<u>Funding</u>			
02070 Hazardous Waste-Cercla	\$507	\$527	\$1,034
02162 Environmental Quality Protecti	350	364	714
02520 Fy06 Cercla Bond Proceeds	7,492	7,787	15,279
02940 Pegasus - Basin	3,194	3,319	6,513
03036 Deq Federal Aml Grant	176,797	183,467	360,264
03158 Blm Interagency Agreement	1,140	1,185	2,325
03259 Superfund Multi Site	88,592	91,173	179,765
03463 Mine Lease/Reclamation	22	23	45
03468 Core Cooperative Grant-Fy05	4,561	4,741	9,302
03663 Aml Special Projects	72,800	72,800	145,600
03721 Libby Asbestos/Troy	26,489	27,357	53,846
Total Funding	<u>\$381,944</u>	<u>\$392,743</u>	<u>\$774,687</u>

DP 4005 - Basin Creek Mine Closure Plan BIEN - OTO - The executive is requesting one-time-only biennial state special revenue authority of \$750,000 to complete the closure at Basin Creek Mine. This property was acquired as part of the Pegasus bankruptcy. The project is using a combination of existing reclamation bond monies forfeited by Pegasus and general obligation (GO) bond monies to complete closure. The additional activities will qualify as match for Environmental Protection Agency (EPA) cleanup at the Basin/Upper Ten-mile federal superfund site.

LFD ISSUE

Final Closure

The Environmental Protection Agency (EPA) listed the Basin Mining Area to the Superfund National Priorities List on October 22, 1999, due to mining-waste problems in the watershed and mining waste in the town of Basin. The mining area includes the watersheds of Basin and Cataract Creek and portions of the Boulder River below the confluence with these heavily impacted streams. The EPA is the lead agency on this project. Working in partnership with the U.S. Forest Service, the EPA conducted cleanup of the mining wastes at the Buckeye/Enterprise, Crystal, and Bullion Mines located in the Basin and Cataract creek Watersheds. The clean-ups were completed in 2002.

The legislature may wish to inquire if this site will require monitoring, such a water monitoring, and at what cost to the state.

**LFD
COMMENT**

The state issues bonds to match funding received from Comprehensive Environmental Response and Liability Act (CERCLA or federal Superfund Program). This decision package would be funded with the bond proceeds.

DP 4006 - Beal Mountain Mine Closure BIEN-OTO - The executive is requesting one-time-only biennial state special revenue authority of \$260,000 to implement the Beal Mountain Mine closure plan. These activities will be completed using reclamation bond monies remaining in the site account as well as the monies generated from the auction of equipment at the site during FY 2009.

**LFD
ISSUE****Final Closure**

The legislature may wish to inquire if this site will require monitoring, such a water monitoring, and at what cost to the state.

**LFD
COMMENT**

This would be funded with Beal Mountain reclamation bonds that were provided as part of the mine's permitting and development process.

DP 4009 - KRY Remediation Oversight - BIEN - RST - OTO - The executive is requesting one-time-only, biennial, restricted appropriation authority of \$2.4 million in order to implement remedial actions plans at Kalispell Pole & Timber, Reliance Refinery, and Yale Oil (KRY) state Superfund sites. This would be funded with state special revenue from the environmental quality protection fund. This package would cover contracted services to prepare and review engineering plans as well as oversee activities associated with cleaning up the site.

**LFD
COMMENT****Long Term Costs**

The Kalispell Pole and Timber (KPT) Facility, Reliance Refinery Company (Reliance) Facility, and the Yale Oil Corporation (Yale Oil) Facility are located in Kalispell, Montana, and are in relatively close proximity to each other. The KPT Facility is adjacent to the Reliance Facility and the Yale Oil Facility is to the southeast and down gradient of the other two facilities. These three facilities are close to the Stillwater River and nearby residential areas. Groundwater contamination from each of the facilities is commingled in the shallow aquifer. The 2005 Legislature provided the funding to conduct a remedial investigation and feasibility study (evaluation of remedial alternatives), including evaluation of risks to human health and the environment, on the three facilities in combination. The state owns a portion of the land that was Reliance Refinery.

The division developed a cost estimate based on the best available information regarding the anticipated scope of the remedy and cost information presented in the feasibility study and the proposed plan. The estimated cost of site remediation is \$32 million. Changes in the cost elements are likely to occur as a result of new information and data collected during the engineering design of the selected remedy. This is a feasibility-level engineering cost estimate expected to be within plus fifty to minus thirty percent of the actual project cost. This means the projected actual cost is between \$22.4 million and \$48.1 million.

The legislature may wish to inquire what accomplishments are expected in the 2011 biennium and what the future costs to the state may be in the next biennium.

**LFD
COMMENT (CONT.)**

These costs are recoverable under the Comprehensive Environmental Cleanup Responsibility Act (CECRA or state superfund). Funds recovered under the act would be deposited into the environmental quality protection fund for future clean up activities. The funding for a portion of the state's responsibility is requested in DP 4009.

DP 4011 - Accelerated Remediation CECRA Sites BIEN/RST/OTO - The executive is requesting a one-time only biennial restricted appropriation authority of \$728,000 in order to implement remedial action plans at the Upper Blackfoot Mining Complex CECRA site. This would be funded with state special revenue from the environmental quality protection fund. Funding would be used for contract services to complete baseline human health and ecological risk assessments as well as a feasibility study to identify the appropriate methods to clean up contaminants at the site.

**LFD
COMMENT****Site Description and future costs**

The Upper Blackfoot Mining Complex 15 miles east of Lincoln is an inactive mining district, greater than 50 acres in size, which was mined intermittently from 1889 to the 1950s and explored intermittently through the 1980s. Tailings and waste rock dumps and acid mine drainage from old adits have contaminated surface water, sediments, soils and groundwater. The main workings in the district are the Mike Horse Mine, which was a major contributor to surface water contamination; the Anaconda, Carbonate, Edith, Mary P, and Paymaster mines; and a tailings impoundment on Beartrap Creek. In 1975, the impoundment failed during heavy rains and washed metal-laden tailings down the drainage into the upper Blackfoot River.

The mining district is located in a fairly remote area on and near national forest land which is used by hunters and other recreationists. One residence with a domestic well is located on Beartrap Creek above the tailings impoundment. No other residences are present within several miles. The mines are located in the headwaters of the Blackfoot River. The town of Lincoln, about 15 miles downstream, uses the Blackfoot River as a drinking water source.

The executive is requesting funding for the human health and ecological risk assessments and feasibility study. The legislature may wish to inquire about the reasonableness of completing both activities in the biennium and at what stage the process should be in prior to the 2011 legislative session.

**LFD
COMMENT****Cost Recovery**

Under CECRA, the expenditures at these sites will be cost recovered when the payout for unsecured claims under the Asarco Bankruptcy occurs. Funds recovered under the act would be deposited into the environmental quality protection fund for future clean up activities.

DP 4012 - CECRA Accelerated Remediation Base Adjustment - This budget request is for \$3 million per year in state special revenue spending authority for operating expenses in order to continue successful implementation of remedial action plans at state Superfund CECRA sites. This request reflects the budget amendments that were made in FY 2008 that are not captured in the program base. Funding would be used for remedial actions to address contaminants affecting human health and the environment using contracted services.

**LFD
COMMENT**

Under CECRA, the expenditures at these sites are cost recoverable. Funds recovered under the act would be deposited into the environmental quality protection fund for future clean up activities.

New Proposals

New Proposals											
Program	FTE	Fiscal 2010				FTE	Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds	
DP 4015 - Joint DEQ-DNRC Reliance Refinery - BIEN-OTO-RST (Requires Legislation)											
	40	0.00	0	4,500,000	0	4,500,000	0.00	0	4,500,000	0	4,500,000
DP 4016 - Remediation New Leased Vehicles											
	40	0.00	0	0	14,814	14,814	0.00	0	0	17,507	17,507
	Total	0.00	\$0	\$4,500,000	\$14,814	\$4,514,814	0.00	\$0	\$4,500,000	\$17,507	\$4,517,507

DP 4015 - Joint DEQ-DNRC Reliance Refinery - BIEN-OTO-RST (Requires Legislation) - The executive recommends a \$9 million one-time-only, biennial, restricted state special revenue appropriation for the cleanup of the state owned Reliance Refinery property, which has been contaminated by refinery wastes and wood treating contaminants. This request is contingent on passage and approval of LC 294, which would provide the funding via a transfer from the orphan share fund to the environmental quality protection fund.

**LFD
COMMENT**

State Share

The state share was originally established at 27.5 percent of clean up costs. The total liability to the state would range between \$6.2 million and \$13.1 million given the uncertainty of the estimates. If the costs come in at the lower end, only a portion of the appropriation authority will be used. If it comes in at the higher end, the legislature will be requested to fund additional activities at a later date.

**LFD
ISSUE**

Orphan Share Activities

The orphan share program was established to provide a means for determining the share of remediation costs of a defunct party. The fund pays for the allocation process and the allocated share of remediation. HB 116 of the 2007 Legislature adjusted the statute to allow for state agencies that were liable for clean up to access the fund. This is the basis for the request for the state's portion of Reliance Refinery cleanup. However, the executive is seeking only authority for this purpose, even though there are other non-state sites that have been approved for orphan share funding.

Given the lack of authority for non-state orphan share activities, the legislature may wish to inquire about the status of the projects that have already been approved for orphan share funding, including when funding will be required.

DP 4016 - Remediation New Leased Vehicles - The executive requests \$14,814 in FY 2010 and \$17,507 in FY 2011 in federal special revenue for additional motor pool leases of a hybrid sedan and a hybrid small utility vehicle. These vehicles will be utilized by the Abandoned Mine Lands (AML) program in the Remediation Division. This program is expanding due to increased federal awards from the U.S. Office of Surface Mining (OSM). Hybrid vehicles are requested to conform with the Governor's 20x10 initiative.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	199.03	199.03	212.03	212.03	199.03	212.03	13.00	6.53%
Personal Services	10,897,631	12,301,649	14,394,362	14,436,000	23,199,280	28,830,362	5,631,082	24.27%
Operating Expenses	7,163,107	12,154,977	11,243,108	11,259,512	19,318,084	22,502,620	3,184,536	16.48%
Equipment & Intangible Assets	97,857	185,428	100,557	100,557	283,285	201,114	(82,171)	(29.01%)
Grants	1,870,416	2,196,541	2,033,416	2,033,416	4,066,957	4,066,832	(125)	0.00%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$20,029,011	\$26,838,595	\$27,771,443	\$27,829,485	\$46,867,606	\$55,600,928	\$8,733,322	18.63%
General Fund	1,016,945	1,192,566	2,362,331	2,365,240	2,209,511	4,727,571	2,518,060	113.96%
State Special	13,245,316	17,311,797	18,509,194	18,586,587	30,557,113	37,095,781	6,538,668	21.40%
Federal Special	5,766,750	8,334,232	6,899,918	6,877,658	14,100,982	13,777,576	(323,406)	(2.29%)
Total Funds	\$20,029,011	\$26,838,595	\$27,771,443	\$27,829,485	\$46,867,606	\$55,600,928	\$8,733,322	18.63%

Program Description

The Permitting and Compliance Division administers all DEQ permitting and compliance activities based on 25 state regulatory and 5 related federal authorities. The division:

1. Reviews and assesses environmental permit applications (coordinating with other state, local, and federal agencies) to determine control measures needed to ensure compliance with the law and to prevent land, water, and air conditions detrimental to public health welfare, safety and the environment;
2. Prepares supporting environmental documents under the Montana Environmental Policy Act and provides training and technical assistance when needed;
3. Inspects to determine compliance with permit conditions, laws, and rules; and
4. Provides assistance to resolve the facility's compliance issues, and when necessary recommends formal enforcement actions to the Enforcement Division.

Activities are organized into the Air Resources Management Bureau (air); Industrial and Energy Minerals Bureau (coal, uranium, opencut); Environmental Management Bureau (hard rock, facility siting); Public Water and Subdivision Bureau (public water supply and subdivision); Water Protection Bureau (water discharge); and Waste and Underground Tank Management Bureau (solid waste, junk vehicles, septage pumpers, hazardous waste, asbestos, underground storage tanks).

Program Highlights

Permitting and Compliance Division	
Major Program Highlights	
◆	The proposed biennial budget is 18 percent higher than the 2009 biennial budget primarily due to statewide present law, base program adjustments, and increases to the public water supply and air quality programs
◆	The executive is seeking approval for \$2.0 million general fund to support 12.00 FTE in the public water supply program
◆	Increases to the air quality program total \$3.0 million over the biennium for contracted services, student interns, and monitoring
◆	One-time-only requests for air reporting and water monitoring total \$200,000 for the biennium

Major LFD Issues
<ul style="list-style-type: none"> ◆ The program submitted goals without any corresponding objectives for which to measure progress toward the goal ◆ The executive uses general fund in the public water supply program where state special revenue may be an option ◆ Increases in the air quality program may lead to an increase in air quality fees ◆ The base adjustment of \$3.0 million over the biennium is not broken down by program ◆ The use of general fund for monitoring impaired waters may set a precedent

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Conduct effective water quality permit programs designed to issue complete, accurate, environmentally sound and legally defensible permits within statutory time frames
 - Issue 100 percent of required boil orders and health advisories
 - Address 100 percent of violations related to treatment technique requirements, maximum contaminant level violations and Significant Non-Compliers that are identified through quarterly compliance evaluations
 - Conduct up to 520 compliance evaluations

Successes: All boil orders were released as required by law.

Challenges: The second performance measure of addressing 100 percent of violations related to treatment technique violations, MSCL's (Maximum Contaminant Levels), and SNC's (Significant Non-Compliers) identified through quarterly compliances evaluations is being addressed. The cooperation of technical staff, rule specialists, and dedicated staff has worked to address the backlog and current work load to achieve this level. Historically, there has not been enough staff to implement new rules or look at trends in data to assess water quality data over a period of time. Adequate staffing would help to prevent possible disease outbreaks and help systems plan for future needs.

The third performance measure was to conduct the full number of sanitary surveys/compliance determinations required based on number of water systems that are due for review during that year. It was determined that 520 sanitary surveys would be required in FY 2008.

The number of surveys required for FY 2008 did not take into full account the backlog of surveys from previous years. The department has a cooperative agreement with the DEQ Technical and Financial Assistance Bureau staff to perform evaluations in conjunction with its source water protection work at water supplies. There are several county contracts for performing compliance evaluations at water supplies for which the department does not have an accounting until the county finalizes its report and submits it to the department. One county has dropped the sanitary survey contract with the Department as of May 2008. In addition, more of these contracts are at risk of being canceled by the County Health Departments because the rising cost of conducting the inspections is not completely covered by the contracted payments. If these contracted services are lost, attainment of the goal may be in jeopardy as the department's backlog increases.

**LFD
ISSUE**

The executive budget contains a \$2.0 million general fund request to address the above challenges (DP 5021 – Public Water Supply Staff). The legislature may wish to use this information as a starting point to align program goals with needed resources.

- To issue currently required permits or registrations, provide compliance assistance, ensure compliance with all applicable air quality requirements, and protect public health through reduction of emissions of hazardous air pollutants
 - The department will issue 25 percent of the backlogged permits or registrations each fiscal year
 - The department will conduct compliance determinations on 15 percent of the permitted or registered facilities each fiscal year

Successes: The department hired three new engineers and two student interns, and opened an office in Butte that is focusing on these goals. As of the October 2008 performance workgroup meeting, the department had processed 36 percent of the backlogged registration applications and conducted compliance inspections at 12 percent (75 facilities) of the registered facilities.

Challenges: The department adjusted the compliance inspections from 15 percent to 12 percent in order to have a balanced regulatory program of permitting, compliance, and assistance. The legislature may wish to discuss this change with the agency.

**LFD
COMMENT**

Continued funding for the intern program is being requested in DP 5006 - ARMB Student Intern Funding.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

The agency submitted goals by program, a sampling of what is provided as reference:

- Issue timely and complete permit and permit modification decisions for mining and reclamation of opencut minerals which ensure that mineral development which occurs does so with adequate protection of environmental resources
- Conduct compliance evaluations to assess compliance with applicable public water supply requirements and to offer compliance assistance to the regulated community
- Effectively manage, through permitting, the discharge of materials into state waters in order to ensure appropriate protection of public health and the environment
- Issue timely and complete permits for sources to provide appropriate protection of public health through compliance with applicable requirements of the Clean Air Act

**LFD
ISSUE**

The program submitted goals without corresponding objectives

The legislature is unable to formulate appropriations policy or make future determinations about success based on the goals provided by this program. For example, the terms issue, conduct, and manage are terms that indicate something will be happening, but does not describe the anticipated result. If pollutant discharge into state waters is an issue, the measure to determine if the state is doing better or worse is not described. Without this description there is not a way to determine progress. The legislature may wish to discuss with the program appropriate goals and objectives to assure that program resources are appropriately aligned with agency objectives.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Permitting & Compliance Div.						
Program Funding	Base FY 2008	% of Base	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 1,016,945	5.1%	\$ 2,362,331	8.5%	\$ 2,365,240	8.5%
01100 General Fund	1,016,945	5.1%	2,362,331	8.5%	2,365,240	8.5%
02000 Total State Special Funds	13,245,316	66.1%	18,509,194	66.6%	18,586,587	66.8%
02054 Ust-Installer Lic & Permit Acc	50,108	0.3%	32,823	0.1%	32,873	0.1%
02070 Hazardous Waste-Cercla	341,327	1.7%	442,579	1.6%	443,804	1.6%
02075 Ust Leak Prevention Program	323,585	1.6%	253,772	0.9%	254,241	0.9%
02096 Reclamation - Bond Forfeitures	-	-	10,000	0.0%	10,000	0.0%
02157 Solid Waste Management Fee	517,077	2.6%	665,691	2.4%	666,614	2.4%
02201 Air Quality-Operating Fees	3,304,418	16.5%	4,889,037	17.6%	4,937,947	17.7%
02202 Asbestos Control	194,948	1.0%	253,819	0.9%	254,693	0.9%
02204 Public Drinking Water	765,327	3.8%	1,005,204	3.6%	1,006,561	3.6%
02278 Mpdcs Permit Program	1,369,159	6.8%	1,855,059	6.7%	1,861,131	6.7%
02418 Subdivision Plat Review	1,537,974	7.7%	1,756,393	6.3%	1,760,651	6.3%
02420 Bd Of Cert For W&Ww Op	96,793	0.5%	116,460	0.4%	116,510	0.4%
02421 Hazardous Waste Fees	36,163	0.2%	130,519	0.5%	133,927	0.5%
02428 Major Facility Siting	146,268	0.7%	562,159	2.0%	562,152	2.0%
02521 Pegasus Bankruptcy/Operations	726,188	3.6%	750,292	2.7%	750,200	2.7%
02576 Natural Resources Operations Ssr Fu	1,613,163	8.1%	2,076,044	7.5%	2,083,242	7.5%
02579 Coal & Uranium Mine Account	214,251	1.1%	249,898	0.9%	249,887	0.9%
02845 Junk Vehicle Disposal	1,974,237	9.9%	2,273,757	8.2%	2,276,423	8.2%
02947 Zortman/Landusky Nitrate Systm	1,601	0.0%	1,599	0.0%	1,599	0.0%
02952 Zortman Recl-Last (1,500,000)	-	-	190,000	0.7%	190,000	0.7%
02954 Septage Fees	32,729	0.2%	19,089	0.1%	19,132	0.1%
02988 Hard Rock Mining Reclamation	-	-	975,000	3.5%	975,000	3.5%
03000 Total Federal Special Funds	5,766,750	28.8%	6,899,918	24.8%	6,877,658	24.7%
03014 Dw Srf Ffy05 Grant	24,495	0.1%	-	-	-	-
03040 Operator Training Reimbursemnt	258,151	1.3%	304,713	1.1%	305,068	1.1%
03067 Dsl Federal Reclamation Grant	944,350	4.7%	-	-	-	-
03107 National Park Service - Yellowstone	38,191	0.2%	19,975	0.1%	(7,764)	0.0%
03243 Dw Srf 06 Grant	345,531	1.7%	-	-	-	-
03262 Epa Ppg	2,567,374	12.8%	-	-	-	-
03309 Ust Leak Prevention Grant	-	-	35,554	0.1%	35,588	0.1%
03325 Pm 2.5 To 3/31/09	43,472	0.2%	365,951	1.3%	363,391	1.3%
03326 Blm For Zortman & Landusky	454,759	2.3%	521,416	1.9%	521,359	1.9%
03433 Epa Ppg Fy10-11	-	-	3,012,502	10.8%	3,017,157	10.8%
03435 Pm 2.5 Fiscal Year 2004	249,107	1.2%	-	-	-	-
03438 Brownsfield State Response	62,286	0.3%	24,940	0.1%	25,029	0.1%
03480 Blm Cbm Agreement	196,264	1.0%	358,866	1.3%	359,458	1.3%
03691 Nps Staffing/Support	98,286	0.5%	101,902	0.4%	101,929	0.4%
03798 Homeland Water System Security	52,227	0.3%	60,544	0.2%	60,573	0.2%
03812 Epa 106 Water Grant	432,257	2.2%	-	-	-	-
03815 Dw Srf 09 Grant	-	-	940,078	3.4%	940,661	3.4%
03816 Doi Osm A&E Grant	-	-	1,153,477	4.2%	1,155,209	4.2%
Grand Total	\$ 20,029,011	100.0%	\$ 27,771,443	100.0%	\$ 27,829,485	100.0%

The division is funded with general fund and a variety of state and federal special revenue sources. The general fund provides 8.5 percent of the total funding and supports operating expenses.

State special revenue consists of forfeited hard rock reclamation bonds, and fees collected for various activities such as air permits, junk vehicle fines, public water supply connections, and subdivision reviews. These funds are used to administer related permits and compliance operations in the division. The division also receives Resource Indemnity Trust (RIT) interest via the hazardous waste and natural resources operations fund.

Federal special revenue sources include the Environmental Protection Agency (EPA) and the Bureau of Land Management (BLM). Federal funds are directed toward specific sites or for primacy costs of the permitting programs.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	1,016,945	1,016,945	2,033,890	43.02%	20,029,011	20,029,011	40,058,022	72.05%
Statewide PL Adjustments	160,217	163,212	323,429	6.84%	2,767,050	2,813,059	5,580,109	10.04%
Other PL Adjustments	1,110,169	1,110,083	2,220,252	46.96%	4,883,839	4,894,353	9,778,192	17.59%
New Proposals	75,000	75,000	150,000	3.17%	91,543	93,062	184,605	0.33%
Total Budget	\$2,362,331	\$2,365,240	\$4,727,571		\$27,771,443	\$27,829,485	\$55,600,928	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					3,299,017					3,342,161
Vacancy Savings					(567,858)					(569,598)
Inflation/Deflation					35,891					40,496
Total Statewide Present Law Adjustments					\$2,767,050					\$2,813,059
DP 5002 - Air Online Permit & Compliance Reporting BIEN/OTO	0.00	0	75,000	0	75,000	0.00	0	75,000	0	75,000
DP 5003 - Air Regulatory Assistance BIEN	0.00	0	250,000	0	250,000	0.00	0	250,000	0	250,000
DP 5004 - Area Source MACT Registration	1.00	0	130,820	0	130,820	1.00	0	129,895	0	129,895
DP 5006 - ARMB Student Intern Funding	0.00	0	94,946	0	94,946	0.00	0	94,946	0	94,946
DP 5018 - Permitting & Compliance Operations Adjustments	0.00	110,169	939,411	533,493	1,583,073	0.00	110,083	959,025	525,404	1,594,512
DP 5019 - Hard Rock-Major Facility Siting Act Projs-BIEN-RST	0.00	0	1,700,000	50,000	1,750,000	0.00	0	1,700,000	50,000	1,750,000
DP 5021 - Public Water Supply Staff	12.00	1,000,000	0	0	1,000,000	12.00	1,000,000	0	0	1,000,000
Total Other Present Law Adjustments	13.00	\$1,110,169	\$3,190,177	\$583,493	\$4,883,839	13.00	\$1,110,083	\$3,208,866	\$575,404	\$4,894,353
Grand Total All Present Law Adjustments					\$7,650,889					\$7,707,412

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Relative to the 2008 market survey, the current market rate is 90.1 percent, a reduction from the 2006 market survey of 105 percent
- **Vacancy** – The agency did not provide program specific information
- **Legislatively applied vacancy savings** – The agency did not provide program specific information
- **Pay Changes** – Thirty three employees, 16 percent of the division, are eligible for full retirement with an estimated payout of \$341,000
 - The division has been working on succession planning. The goal is a seamless transition of employees, minimizing loss of institutional knowledge and disruption of customer service. The program will include such items as informal mentoring, on-the-job training, formal on-the-clock seminar courses, formal traditional training, and staff coaching to help them desire to make the agency successful and creating a sense of responsibility for experienced staff to pass information back to programs for the program's use

DP 5002 - Air Online Permit & Compliance Reporting BIEN/OTO - The executive requests biennial one-time-only state special revenue authority of \$150,000 to contract for enhancements to the CEDARS (Consolidated Environmental Database and Retrieval System) database. This enhancement would allow regulated facilities to submit required reports and information online. The funding would come from air quality fees.

DP 5003 - Air Regulatory Assistance BIEN - This \$500,000 biennial appropriation using state special revenue is to contract for consulting services for regulatory assistance in the Air Quality Program. Contract consultants would assist with air quality permitting, registration, environmental reviews required under the Montana Environmental Policy Act, and compliance activities to assure permit conditions and other applicable requirements are met. The funds would also be used for baseline monitoring of ambient nitrogen oxide and ozone levels in areas of Montana potentially subject to increased emissions of volatile organic compounds from increased oil and gas development.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification

The additional funding is needed to contract for consulting services for regulatory assistance in the Air Quality Program. The need for this assistance has been generated by the recent increase in the number of oil and gas well facilities, fossil fuel-fired power plants, and other energy production facilities subject to the Montana and Federal Clean Air Act. With this assistance the department would be able to assure compliance with the Montana and Federal Clean Air Acts without compromising economic development in the state.

Outcome

The goal is to obtain funding so the department can contract for consulting services for regulatory assistance in the Air Quality Program. The consultant services could include assisting the department with air quality permitting, registration, environment reviews required under the Montana Environmental Policy Act, and compliance activities to assure permit conditions and other applicable requirements are met. In addition, this assistance could be used to contract for baseline monitoring of ambient nitrogen oxide and ozone levels in those areas of Montana that are potentially subject to increased emissions of volatile organic compounds from increased oil and gas development. This monitoring will also assure that public health is protected and that the development will occur in compliance with applicable requirements.

Performance Criteria

This appropriation for consulting services would be used to assure that the expanded demand for air regulatory services, without a commensurate increase in FTE, does not result in a programmatic bottleneck. Performance criteria would be

the ability of the Air Program to meet statutory deadlines. Progress will be measured by the percent of air permitting and registration actions completed within statutory deadlines.

Milestones

The department is proposing to enter into contractual agreements for the air quality permitting, registration, compliance, environmental review, or monitoring activities at the beginning of the fiscal year.

FTE

No additional FTE are being requested in this proposal. Any workload generated in the managing and oversight of the contracts will be absorbed by the agency.

Funding

The department would use air quality permit fees to fund this proposal. This is an appropriate use of air quality permit fees because oil and gas well facilities are subject to the permitting requirements of the Federal and Montana Clean Air Acts and contribute to air pollution in the state.

The department believes that, for the foreseeable future, energy development will continue at its current pace. Therefore, the air regulatory funding will need to continue at the proposed level of \$500,000 for the 2013 biennium. Air quality permit fees would be used for the 2013 biennium as well.

Obstacles

The main challenge will be getting the contracting for consultant services completed in a timely manner as there are not a large number of consultants that have expertise in the field of air quality.

Risk

Economic development associated with oil and gas well facilities may be stifled because the department would be unable to complete the environmental analyses necessary to ensure that these facilities operate in compliance with all of the applicable federal and state requirements in a timely manner.

LFD ISSUE

Outcome of proposal and on-going activities

There are two issues with this proposal. First, the outcome statement does not address how this will aid in assuring that the State and Federal Clean Air Acts are met. Instead it focuses on the short term to secure resources from the legislature to use a contractor. It also does not address any outcome of the monitoring process. Is it to assure compliance with the clean air acts or is it to isolate problem areas within the state to focus resources?

Second, the executive is seeking a one-time-only request, but this is not a one-time project. The executive requested and the legislature approved contract assistance for the air program for the 2009 biennium. In addition, the agency describes a future need for funding in the 2013 biennium to support the activities.

The legislature may wish to discuss with the division both the short-term, (2011 biennium) and the long-term operating plans for the Air Regulatory Program to determine if this is an on-going function that requires on-going resources or if one-time-only resources are necessary for some purpose such as assuring results from the activities.

LFD COMMENT

This proposal is funded with air quality fees. See Agency Issue for additional information.

\$130,820 in FY 2010 and \$129,895 in FY 2011 to create and administer a Maximum Achievable Control Technology (MACT) registration system and to provide regulatory assistance to area sources. Under federal program delegation for the Title V Air Quality Operating Permit Program, Montana has the responsibility to regulate those sources.

**LFD
COMMENT**

Area sources typically do not generate enough pollutants to require an air quality permit. However, such sources do generate enough hazardous air pollutants (HAPs) to be subject to the MACT regulations. This proposal would allow for the monitoring of those pollutants. This proposal is funded with air quality fees. See Agency Issue for additional information.

DP 5006 - ARMB Student Intern Funding - This request is for \$94,946 per year in state special revenue in order to hire student interns in the Air Resources Management Bureau (ARMB). These funds are for up to four student interns who would provide assistance with air quality permitting and compliance activities and increase program efficiency.

**LFD
COMMENT**

The department has had long-term issues with recruiting qualified personnel in this area. By utilizing student interns, college students are provided real work experience and may be future employees of the department. The legislature may wish to ask at a later date if this approach enhances department staff recruiting. This proposal is funded with air quality fees. See Agency Issue for additional information.

DP 5018 - Permitting & Compliance Operations Adjustments - The executive requests a base operating adjustment of \$1,583,073 in FY 2010 and \$1,594,512 in FY 2011 of general fund and state and federal special revenue. Base expenditures were low in junk vehicle grants to counties, reimbursements for abandoned vehicles, contracts not put into place due to vacancies, and underground storage tank funding.

**LFD
ISSUE****Proposal Lacks sufficient detail**

This proposal represents base adjustments to the six bureaus: 1) the Air Resources Management Bureau (air); 2) Industrial and Energy Minerals Bureau; 3) Environmental Management Bureau; 4) Public Water and Subdivision Bureau; 5) Water Protection Bureau; and 6) the Waste and Underground Tank Management Bureau. The detail to the decision package is provided in the figure. From this information it is not possible to determine what bureau is receiving what authority and for what purpose. This package includes biennial increases of \$220,252 general fund and \$359,012 of natural resources operating funds; however, the programs that will receive these funds are indeterminable. The LFD staff requested this information and the agency did not provide sufficient detail to answer the questions raised.

The decision package, as written, provides a lump sum adjustment to the division to allocate as they determine necessary. It does not allow for the legislature to discuss with the agency the plan to implement the adjustment or why the adjustments are necessary. The legislature may wish to request that the agency segregate this base adjustment by bureau prior to taking any action on the package.

**Summary of Expenditures and Funding for DP 5018
Permitting and Compliance Division Base Budget Adjustment**

Category	FY 2010	FY 2011	Biennial
Expenditures			
62102 Consult & Prof Services	\$207,482	\$205,053	\$412,535
62169 Contracts With Non-Profits	69,161	68,351	137,512
62240 Inspection-Field Equip/Supp	47,730	50,968	98,698
62304 Postage & Mailing	23,000	23,000	46,000
62319 Cellular Phones	4,000	4,000	8,000
62404 In-State State Motor Pool	38,002	38,000	76,002
62408 In-State Lodging	35,000	35,000	70,000
62410 In-State Meals Overnight	10,000	10,000	20,000
62498 Non-Employee Travel	22,300	22,300	44,600
62510 Motor Pool Leased Vehicles	33,066	33,893	66,959
62601 Electricity	2,000	2,000	4,000
62713 Laboratory Equipment	6,695	6,695	13,390
62809 Education/Training Costs	17,000	17,000	34,000
62827O Deq Indirects - Operating	8,121	8,398	16,519
62827P Deq Indirects - Personal Serv	893,816	904,154	1,797,970
63000 Equipment & Intangible Assets	2,700	2,700	5,400
66000 Grants	163,000	163,000	326,000
Total Expenditures	\$1,583,073	\$1,594,512	\$3,177,585
Funding			
01100 General Fund	\$110,169	\$110,083	\$220,252
02054 Ust-Installer Lic & Permit Acc	(2,697)	(2,693)	(5,390)
02070 Hazardous Waste-Cercla	25,394	25,595	50,989
02075 Ust Leak Prevention Program	(5,983)	(5,902)	(11,885)
02157 Solid Waste Management Fee	38,288	38,471	76,759
02201 Air Quality-Operating Fees	288,607	302,705	591,312
02202 Asbestos Control	23,307	23,457	46,764
02204 Public Drinking Water	(77,012)	(76,809)	(153,821)
02278 Mpdcs Permit Program	143,466	144,324	287,790
02418 Subdivision Plat Review	33,637	34,460	68,097
02420 Bd Of Cert For W&Ww Op	14,640	14,646	29,286
02421 Hazardous Waste Fees	20,738	21,414	42,152
02428 Major Facility Siting	2,562	2,562	5,124
02576 Natural Resources Operations Ssr Fu	178,606	180,406	359,012
02845 Junk Vehicle Disposal	252,737	253,266	506,003
02954 Septage Fees	3,121	3,123	6,244
03040 Operator Training Reimbursemnt	19,711	19,754	39,465
03107 National Park Service - Yellowstone	(3,086)	(7,764)	(10,850)
03325 Pm 2.5 To 3/31/09	29,895	24,131	54,026
03326 Blm For Zortman & Landusky	17,218	17,218	34,436
03433 Epa Ppg Fy10-11	115,253	116,781	232,034
03438 Brownsfield State Response	(1,959)	(1,954)	(3,913)
03480 Blm Cbm Agreement	46,806	46,825	93,631
03691 Nps Staffing/Support	2,791	2,823	5,614
03798 Homeland Water System Security	2,273	2,276	4,549
03815 Dw Srf 09 Grant	237,657	238,085	475,742
03816 Doi Osm A&E Grant	\$66,934	\$67,229	\$134,163
Total Funding	\$1,583,073	\$1,594,512	\$3,177,585

DP 5019 - Hard Rock-Major Facility Siting Act Projs-BIEN-RST - This restricted biennial request is for \$3.5 million in state and federal special revenue for hard rock reclamation and Major Facility Siting Act (MFSA) projects. Project spending authority would be used for reclamation of mine sites that would be funded by various bond forfeitures, settlement agreements, or funds raised through the sale of general obligation bonds authorized by 82-4-314, MCA. The authority for MFSA projects is based on past projects and the potential for future projects.

**LFD
COMMENT****MFSA**

The Major Facility Siting Act (MFSA) requires the department to review applications for the siting of major electric transmission, pipeline, or geothermal facilities to assure the location, construction, and operations of such facilities conform with state law. The types of facilities are summarized in 75-20-201, MCA. The legislature established the fees for this process to cover the costs.

DP 5021 - Public Water Supply Staff - The executive requests 12.00 FTE and \$1.0 million general fund in FY 2010 and FY 2011 to address the deficiencies in the 2007 EPA Primacy Report on the status of Montana's Public Water Supply Program. Deficiencies cited include insufficient resources to adequately implement the required elements of the Safe Drinking Water Act, continued EPA roll-out of federal regulations, and protect public health.

**LFD
COMMENT**

In August of 2008, the executive approved 9.00 modified FTE across 13 positions for this purpose utilizing carry forward authority and funding from the natural resources operations fund. This decision package would make permanent those 9.00 FTE and add 3.00 FTE.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification

The department is the approved (primacy) agency to implement federal drinking water regulations in the state. The department must adopt and implement each new requirement, which often requires resources and ongoing technical assistance. Despite department efforts to increase efficiency and improve resources, it has not been possible to keep pace with the increasing demands and workload.

With two new regulations needing to be implemented now, one more in the very near future (2009), and more on the horizon, the situation has now reached the critical point and has become an unquestionable threat to the public health.

Project Outcome(s)

The overall goal of the project is to reduce the number of public water systems (PWSs) that become significant non-compliers (SNCs) and eliminate the backlog of PWS sanitary surveys (inspections) and keep current on all required surveys. This will provide a higher level of assurance to the public that their water is safe to drink.

Performance Criteria

With the added staff the PWS Program should be able to:

- o Adopt and implement new federal regulations; Long Term 2 Surface Water Treatment Rules (LT2), Stage 2 Disinfection and Disinfection By-Product Rules (Stage 2), and the Groundwater Rule
- o Provide additional technical assistance to public water systems and eliminate the backlog of sanitary surveys needed
- o Reduce the number of systems becoming SNCs

Milestones

- o Adopt and begin implementation of LT2 and Stage 2 regulations by June 2010
- o Adopt and begin implementation of the Groundwater Rule by December 2011
- o Eliminate backlog of sanitary surveys (approx. 400) by June 2011
- o Reduce number of SNCs by 20 percent by the end of the biennium

**LFD
COMMENT**

The last milestone should be listed under performance criteria.

FTE

During FY09 the Governor's Office authorized 9.00 modified FTE across 13 positions to begin the process of improving the state's ability to implement the regulations and increase assurance the drinking water provided to the public is safe.

Those positions include:

- o Nine environmental science specialists whose duties include rule implementation, compliance determination, technical assistance, sanitary surveys, and operator training
- o One data control technician who would be responsible for inputting data generated by the new FTEs into the database, verifying data accuracy, and preparing reports from the database
- o Two administrative support positions to provide assistance to the new FTEs

**LFD
COMMENT**

The nine environmental science specialist positions were expected to be filled by the first half of November 2008 and the remaining positions would be filled 2 to 4 weeks after.

The legislature may wish to inquire about the status of these positions.

Funding

General fund is requested because existing funding sources consisting of fees and federal grants are inadequate. No additional federal grant funding is available. The fees are statutorily set and would require more than a 300 percent increase to fund the proposal. The program will require ongoing support of \$1.1 to \$1.2 million per year after the 2011 biennium.

Obstacles

New environmental science specialists will need training and guidance on the regulations that they will be working with. Depending on the experience level of a new employee and the regulations they will be responsible for, it could take six months to a year before an employee is fully proficient. EPA Region 8 has committed to providing access to EPA's rule management staff to assist in training the new staff.

Risk

If the modified positions are not approved and retained, the remaining staff will have the task of trying to implement all existing and new federal regulations for public drinking water. Since it has already been documented that current staffing levels are inadequate, it is highly likely that staff will only be able to partially implement the regulations and will be unable to provide much technical assistance to the water systems. The number of water systems with violations will increase and sanitary surveys will become further backlogged. Assurances that public drinking water is safe will decline.

In the worst case, the Environmental Protection Agency (EPA) could determine that DEQ cannot adequately implement the requirements of the federal regulations in Montana. The EPA could withdraw the state's "primacy", meaning that the EPA could withdraw the authority they have granted us to be the primary agency to implement the federal rules, resulting in a loss of approximately \$1.2 million in federal revenue.

**LFD
COMMENT****Public Water Supply Defined**

The department has contended that the request is to satisfy a public health need. In order to determine that need, the scope of a public water system should be defined. A public water supply is defined in 75-5-102(14) MCA, as a "system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispensers or other water supply that has at least 15 service connections or that regularly serves at least 25 person per day for at least 60 days." Any issues raised with these systems could affect the health of a community.

In addition, this program serves transient water systems defined in 75-5-102 (19) MCA, as a "public water supply system that is a non-community water system and that does not regularly serve at least 25 of the same persons for at least six months of the year." These systems are usually found associated with campgrounds, resorts, and restaurants. Any issues raised with these systems could affect the health of the patrons who consume water at a certain point in time. This population is in transit and could be difficult to locate, which may create a wider public health problem.

**LFD
ISSUE****Lack of measurable performance Criteria, Use of General Fund, Loss of Primacy**

Under the state's primacy agreement with the federal government, the department is responsible for implementing the conditions of the Safe Drinking Water Act, including an assurance that the state has sufficient resources. The department contends that this has been a resource issue. The legislature was previously asked during the 2007 legislative session for 1.00 FTE to complete public water supply surveys, and it was not approved. The urgency to obtain resources to protect human health was not provided at that time, as it is now. The issues that the legislature may wish to consider include lack of measureable performance criteria, use of general fund, and the loss of primacy.

Lack of measurable performance criteria

The executive is seeking \$2.0 million general fund authority for the biennium for 12.00 FTE to establish the personal services resources required to reduce the number of public water systems (PWSs) that become significant non-compliers (SNCs), eliminate the backlog of PWS sanitary surveys (inspections), and keep current on all required surveys. The executive contends that the 12.00 FTE would be sufficient to address all issues. These activities would potentially improve the quality of public water, but the performance criteria provided lacks specific measurable criteria in which to determine success toward that goal. The department has access to historical data for both SNCs and PWS surveys that could be used in this manner to demonstrate improvement to the public and the EPA.

The legislature may wish to discuss with the agency and establish performance criteria that will assist in determining success. The legislature also has the option for requesting interim monitoring by the Legislative Finance Committee on this project to assure that resources are deployed as planned and the safety of Montana's public water supply is improved.

Use of General Fund

The executive's request for general fund indicates his determination that the public health impacts of inadequate public water supply affect all Montanans and the financial burden should therefore be undertaken by the general fund rather than increasing fees. This request represents a major change in the funding of this program and the decision to utilize general fund in this manner is a policy decision of the legislature. There are other sources of revenue dedicated to this program and these should be considered prior to appropriating general fund.

**LFD
ISSUE (CONT.)**

The public drinking water special revenue fund was created in 1995 to fund department costs in implementing the public drinking water supply program. The fees that feed this fund are statutorily set at \$2.00 per service connection to the public water supply with a minimum of \$100. The same is true for transient water supply system, except the minimum is \$50. The historical revenues and expenses from this fund are summarized in the figure below. Note that in FY 2004, FY 2005 and FY 2008 the agency expended more than the annual revenues, thus the fund was not structurally balanced.

The funds raised by the fee are inadequate to support the drinking water supply program. Because of this, the hazardous/waste CERCLA fund, a resource indemnity fund, is utilized to provide funding to assist with increasing costs. This fund is available for hazardous waste activities per 75-10-621 (3), MCA. However, the PWS program is not one of those activities.

Federal funding for the public water supply program is provided from a portion of the waste water and drinking water state revolving funds where a portion can be utilized for source water protection, capacity development, and

operator certification. Federal funds are also available through the Environmental Protection Agency's performance partnership grants. At this point, the state has exhausted these funding sources.

Department of Environmental Quality Public Water Supply Fees Historical Revenues and Expenditures					
	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Expenditures					
Personal Services	\$321,707	\$377,730	\$390,031	\$421,468	\$622,515
Operating Expenses	379,856	377,980	322,560	339,610	255,457
Transfers	0	0	325	0	0
Total Expenditures	<u>\$701,563</u>	<u>\$755,710</u>	<u>\$712,916</u>	<u>\$761,078</u>	<u>\$877,972</u>
Revenues					
Licenses & Permits	\$613,352	\$644,213	\$747,073	\$805,688	\$866,462
Taxes	44	34	47	54	71
Grants/Transfers/Misc	0	0	6,418	0	37
Total Revenues	<u>\$613,396</u>	<u>\$644,248</u>	<u>\$753,538</u>	<u>\$805,742</u>	<u>\$866,570</u>
Structural Balance	(\$88,167)	(\$111,462)	\$40,622	\$44,664	(\$11,402)

The executive request is one option for the legislature to consider. Since the policy decision of funding this program is that of the legislature, other options could be considered, including:

- Raise the public water supply connection fee to cover the entire request. This change would require the committee to request legislation to change the fee in statute and replace the funding in the decision package with state special revenue fees. This budgetary action would be contingent on passage and approval of the legislation. For every \$1.00 increase to the fee, the revenues would increase approximately \$400,000. It would take a \$3.00 increase per connection fee, or an increase per private user from \$24 per year to \$60 per year to cover the cost of this decision package.
- Raise the public water supply connection fee to cover a portion of there request. This change would require the committee to determine what portion of this program benefits the entire population of Montana and fund that percentage with general fund. The remainder would come from the state special revenue fees. The committee would need to request legislation to change the fee in statute and change the funding of this package to reflect the decision. Again, this budgetary action would be contingent on passage and approval of the legislation.
- The legislature also has the option of funding the entire program with general fund. If the legislature agrees with the executive's use of general fund due to public health concerns, then the program could be funded in whole as such. This would require the legislature to request legislation to de-earmark the public water supply fees and deposit the proceeds to the general fund. The legislature would also need to add decision package to the program to replace \$765,327 of public water supply fees each year of the biennium with a like amount from the general fund.

As stated earlier, this program utilizes a portion of hazardous waste funding. However, use of the funds for this purpose is not included in statute. Therefore, the legislature may want to consider addressing the inappropriate use of this funding source in this program. To do this, the legislature would need to either raise fees to cover the \$141,629 per year or appropriate an equal amount of general fund. This change could be done in conjunction with the other changes.

**LFD
ISSUE (CONT.)****Loss of Primacy**

The justification states that a risk to the program would be a loss of \$1.2 million in federal funds due to the loss of EPA primacy. States and Indian Tribes are given primary enforcement responsibility (e.g. primacy) for public water systems if they meet certain requirements. The state must:

- o Have regulations for contaminants regulated by the national primary drinking water regulations (NPDWRs) that are no less stringent than the regulations promulgated by EPA. States have up to 2 years to develop regulations after new regulations are released by EPA
- o Have adopted and be implementing procedures for the enforcement of state regulations
- o Maintain an inventory of public water systems in the state
- o Have a program to conduct sanitary surveys of the systems in the state
- o Have a program to certify laboratories that will analyze water samples required by the regulations
- o Have a laboratory that will serve as the state's "principal" laboratory, that is certified by EPA
- o Have a program to ensure that new, or modified, systems will be capable of complying with state primary drinking water regulations
- o Have adequate enforcement authority to compel water systems to comply with NPDWRs, including:
 - the authority to sue in court
 - right to enter and inspect water system facilities
 - authority to require systems to keep records and release them to the state
 - authority to require systems to notify the public of any system violation of the state requirements
- o Have adequate recordkeeping and reporting requirements
- o Have adequate variance and exemption requirements as stringent as EPA's, if the state chooses to allow variances or exemptions
- o Have an adequate plan to provide for safe drinking water in emergencies like a natural disaster
- o Have adopted authority to assess administrative penalties for violations of their approved primacy program

If the state loses primacy, the EPA would be the primary agency for implementing the Safe Water Drinking Act. If this would occur, the state would lose the federal funds, but no longer be required to meet the conditions listed above. Without primacy, the implementation of the Safe Water Drinking Act falls solely to the EPA.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 5008 - Air Program - Field Office Vehicles										
50	0.00	0	11,029	5,514	16,543	0.00	0	12,041	6,021	18,062
DP 5010 - Swift Gulch Treatment System Operating Expenses										
50	0.00	50,000	0	0	50,000	0.00	50,000	0	0	50,000
DP 5011 - Whitefish Lake Monitoring - Bien/OTO										
50	0.00	25,000	0	0	25,000	0.00	25,000	0	0	25,000
Total	0.00	\$75,000	\$11,029	\$5,514	\$91,543	0.00	\$75,000	\$12,041	\$6,021	\$93,062

DP 5008 - Air Program - Field Office Vehicles - The executive requests \$16,543 in FY 2010 and \$18,062 in FY 2011 of state and federal special revenue for two vehicles for air program field offices. Additional staff has been hired in the Billings and Butte field offices where there are no motor pool vehicles available. This would be funded with air quality operating fees and funding from the Bureau of Land Management.

DP 5010 - Swift Gulch Treatment System Operating Expenses - This general fund request is for \$50,000 per year in the 2011 biennium for operating expenses for the Swift Gulch treatment system at the Zortman-Landusky mine site.

**LFD
ISSUE**

Request is 34 percent higher than estimate

The 2007 Legislature approved the construction of the semi-passive treatment system; however, long-term operating costs were not requested by the executive. The design engineers estimated the operating costs for the facility, once constructed, would be \$33,000 per year, based primarily on an assumed volume of water requiring treatment and an assumed level of acidity. The legislature may wish to consider requiring the department to demonstrate the need for the additionally \$17,000 per year.

DP 5011 - Whitefish Lake Monitoring - Bien/OTO - The executive requests a \$50,000 biennial one-time-only general fund appropriation to support a peer reviewed sampling program for Whitefish Lake. This lake is an urban interface lake listed as impaired and that also serves as the city's drinking water source. The sampling program would analyze tributary and atmospheric loading on the lake and its internal dynamics.

**LFD
ISSUE**

Impaired waters and general fund

The legislature may set a precedent by funding monitoring of impaired waters with general fund if this decision package is approved. This decision package does not provide any information on why Whitefish Lake sampling is a priority and qualifies for utilizing general fund. There are many other water bodies on the impaired waters list that have a beneficial use as drinking water. The legislature may wish to inquire why this project was chosen, what other projects may have as high of a priority need and why general fund is being requested.

Program Issue*Open Cut Mining Resources*

The Opencut Mining Act (82-4-401 et seq., MCA) applies to the mining of bentonite, clay, scoria, soil materials, peat, sand, or gravel. The act requires the department to review and act on applications for permits, enforce the terms of the permit and manage the associated reclamation bonds. During the 2009 biennium, the department experienced a series of lawsuits directed toward the efficiency of these requirements and the performance of the department. Due to programmatic delays by the department, twice they were court ordered to release open cut mining permits. Throughout the process the agency claimed that the reason for the delay was the discrepancy between the workload and the assigned staff.

The executive budget does not provide new resources to the open cut program. The issue for legislative consideration is how the department plans to achieve statutory deadlines with current staff. The legislature may wish to discuss this with the agency.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	6.00	6.00	6.00	6.00	6.00	6.00	0.00	0.00%
Personal Services	328,535	361,719	358,185	359,020	690,254	717,205	26,951	3.90%
Operating Expenses	214,086	336,807	382,417	385,833	550,893	768,250	217,357	39.46%
Total Costs	\$542,621	\$698,526	\$740,602	\$744,853	\$1,241,147	\$1,485,455	\$244,308	19.68%
State Special	542,621	698,526	740,602	744,853	1,241,147	1,485,455	244,308	19.68%
Total Funds	\$542,621	\$698,526	\$740,602	\$744,853	\$1,241,147	\$1,485,455	\$244,308	19.68%

Program Description

The Petroleum Tank Release Compensation Board is attached to the department for administrative purposes. The purpose of the board is to administer the petroleum tank release cleanup fund. This includes reimbursement to petroleum storage tank owners and operators for corrective action costs and compensation paid to third parties for bodily injury and property damage resulting from a release of petroleum from a petroleum storage tank. The board has a staff of 6.00 FTE. The board is attached to the Department of Environmental Quality (DEQ) for administrative purposes only.

Program Highlights

Petroleum Tank Compensation Board	
Major Program Highlights	
♦	The proposed biennial budget is 20 percent higher than the 2009 biennial budget primarily due to statewide present law adjustments
♦	The executive is requesting base operational increases including \$270,000 for legal costs
♦	Language authority is requested to cover costs associated with the subrogation program
Major LFD Issues	
♦	The program submitted goals without any corresponding objectives for which to measure progress toward the goal
♦	Findings from a joint Legislative Finance Committee and Environmental Quality Council subcommittee should be reviewed
♦	The costs associated with the subrogation program should be evaluated in conjunction with potential recoveries

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee (LFC) did not select any goals to monitor during the 2009 interim.

LFD COMMENT

The LFC joined the Environmental Quality Council (EQC) to examine the issues surrounding the solvency of the fund. The subcommittee learned of disagreements between the board, the Remediation

Division of the department, and the petroleum community regarding the use of funds and the degree of cleanup necessary. The committee examined the differences, reviewed funding issues, and did not recommend any specific changes to the program. The detailed report of this activity is available for review. However the summary findings are provided as an overview of that report. They are as follows:

1. Petroleum tank owners and operators rely on the fund as the default payor for cleanups, instead of the payor of last resort as envisioned by the legislature. Therefore, there is increasing pressure on the fund.
2. Payments are limited to available fund revenue, generated by a \$.0075 per gallon fuel tax. The tax does not generate enough revenue to cover all existing cleanup plans.
3. Revenue from the existing fuel tax is likely to remain flat or decline as motorists reduce their consumption in response to rising fuel prices. For that same reason, it's unlikely that the legislature would pass a fuel tax increase, as proposed by the board.
4. The backlog is caused by the lengthy amount of time that it takes for a cleanup and ground water monitoring to be completed, in accordance with water quality standards followed by the DEQ. These standards are defined in documents known as "Circular DEQ-7" and "Technical Guidance Document #7".
5. The fund is using a prioritization system to pay for cleanups at the most hazardous sites first; lower priority sites languish, unable to be closed.
6. There is disagreement between industry, the board, and the DEQ as to the extent that cleanups should occur in order to facilitate more site closures.
7. The EPA encourages states to use a "risk-based" approach in cleaning up petroleum releases, allowing contaminants to remain in the soil or ground water if they pose no risk of spreading or causing harm.
8. Montana uses a "risk-based" approach to develop site cleanup plans. But if contaminants exceed water quality standards followed by the DEQ, a risk-based approach isn't used to close the site. Contaminants can't remain as long as the water quality standards aren't met.
9. Montana is not ready to transition to a system that requires tank owners and operators to obtain private insurance to pay for petroleum cleanups. Experience with private insurance has been mixed in other states, where some insurers are declining to cover petroleum releases or are taking long periods of time to pay claims.
10. Increasing the deductibles that are applied to cleanups paid by the fund, as proposed by the board, would result in higher out-of-pocket costs or insurance premiums for tank owners and operators.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Ensure that funding is available to obligate to the highest priority eligible environmental cleanup
- Reimburse for high priority environmental clean up within usual and customary business timeframes

LFD ISSUE

Funding availability

The availability of funding to the program is within the scope of the legislature. The program is provided a statutory appropriation for claims cleanup and that appropriation can only be adjusted by changing the statutorily defined per gallon fuel fee dedicated to this program (see findings 2 and 3). The board and its staff can only control the size of the claim with policy established in rule and statute. The legislature may wish to have the board re-write this goal (and provide measureable objectives) to clearly define the board role in the resource management process.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Petro Tank Release Comp. Board						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 542,621	100.0%	\$ 740,602	100.0%	\$ 744,853	100.0%
02058 Petroleum Storage Tank Cleanup	542,621	100.0%	740,602	100.0%	744,853	100.0%
Grand Total	\$ 542,621	100.0%	\$ 740,602	100.0%	\$ 744,853	100.0%

The program is funded solely through a portion of the \$0.0075 fee on gasoline, diesel, heating oil, and aviation fuel distributed in Montana.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	542,621	542,621	1,085,242	73.06%
Statewide PL Adjustments	0	0	0	0.00%	19,701	20,555	40,256	2.71%
Other PL Adjustments	0	0	0	0.00%	178,280	181,677	359,957	24.23%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$740,602	\$744,853	\$1,485,455	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					34,157					35,029
Vacancy Savings					(14,507)					(14,544)
Inflation/Deflation					51					70
Total Statewide Present Law Adjustments					\$19,701					\$20,555
DP 9001 - Petroleum Board Subrogation Operation Adjustments										
	0.00	0	178,280	0	178,280	0.00	0	181,677	0	181,677
Total Other Present Law Adjustments	0.00	\$0	\$178,280	\$0	\$178,280	0.00	\$0	\$181,677	\$0	\$181,677
Grand Total All Present Law Adjustments					\$197,981					\$202,232

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Relative to the 2008 market survey, the current market rate is 98.21 percent, a reduction from the 2006 market survey of 112 percent
- **Vacancy** – The agency did not provide program specific information

- **Legislatively applied vacancy savings** – The program required an operating plan change to transfer \$15,000 from operations to personal services to cover legislatively applied vacancy savings
- **Pay Changes** – Three employees, 50 percent of the program, are eligible for full retirement with an estimated payout of \$24,685

DP 9001 - Petroleum Board Subrogation Operation Adjustments - This request is to restore base expenditures for the Petroleum Tank Release Compensation Board. The biennial request includes \$20,000 for retirement costs, \$5,987 for communications, \$63,983 for agency indirects, and \$270,000 for legal fees related to subrogation.

LFD ISSUE

Subrogation Issues Found by the Petroleum Tank Subcommittee

The Petroleum Tank Release Fund Subcommittee Report to LFC/EQC released in October 2008 describes the subrogation situation as follows:

Collecting payment from private insurance can be complicated, given that a property owner may have purchased policies from multiple insurers over the years or that a historically contaminated property may have changed hands one or several times before the release is discovered. The fund uses a third party to ferret out these channels of payment, a process known as subrogation. Depending on how the money is recovered (by settlement, through trial, etc), the third party is paid 22 to 25 percent of the recovered amount for its services, plus a \$70 an hour fee.

Since 2004, the board has recovered \$1.2 million through subrogation and has paid \$250,000 in fees to the third party. The board has also paid an additional \$829,000 in other legal fees and court costs. In FY 2004, these expenditures amounted to 38 percent of the Board's staff budget. In FY 2006, they amounted to 48 percent of the Board's staff budget. In FY 2008, they amounted to 23.5 percent of the Board's staff budget.

It appears that the board did not actively seek to recover cleanup costs from insurance companies for any release until about six years ago. Several of those attempts have since gone to litigation. In 2006, the Montana Supreme Court ruled that the statute of limitations that applies to these cases is eight years and that the clock starts running at the time that the release is discovered. In the 2006 case, the Board was seeking to recover \$254,842 in cleanup costs from the insurer of a gas station in Butte. The release was discovered in 1989. The board did not submit a claim to the insurer until 2001. The court ruled that that was well after the statute of limitations had expired and the insurer did not have to pay. The board sought to have the ruling overturned. On June 3, 2008, the Montana Supreme Court affirmed its 2006 ruling, again stating that the eight year statute of limitations applies and the clock begins at the time that a release is discovered.

Given these rulings, it appears that the board may no longer seek insurance payments on any of the top 21 most expensive releases (to date), among others. The subrogation attorney for the board evaluated releases from July 2000 to ensure that the board files any necessary claims before the statute of limitations runs out on those cases this month. The board didn't take similar action after the first ruling in 2006, choosing instead to try to have the ruling overturned. In the time between the court's 2006 and 2008 rulings, \$11.8 million in costs surpassed the eight year statute of limitations.

Option: The legislature is being asked to restore funding for court costs and legal fees as well as provide language (see below) for the payment of a portion of recovery costs. The legislature may wish to discuss with the board the claims amount that could potentially be recovered with the requested appropriation authority of \$270,000 for legal costs and \$0.5 million for contract expenses. The discussion should provide the legislature with an anticipated return on investment rate. If the rate is close to 1:1 (or one dollar expended to one dollar returned) the legislature may wish to address whether the performance of this program warrants continual funding.

Language and Statutory Authority

"The department is appropriated up to \$500,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2011 biennium for the purpose of paying contract expenses related to the recovery of funds."

**LFD
COMMENT**

See discussion above.

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	2,134.96	2,134.96	2,145.96	2,145.96	2,134.96	2,145.96	11.00	0.52%
Personal Services	129,928,240	142,044,054	140,980,108	141,534,638	271,972,294	282,514,746	10,542,452	3.88%
Operating Expenses	349,392,502	379,613,277	376,081,320	383,822,209	729,005,779	759,903,529	30,897,750	4.24%
Equipment & Intangible Assets	1,902,440	1,736,957	3,032,975	2,086,440	3,639,397	5,119,415	1,480,018	40.67%
Capital Outlay	15,979,768	12,870,929	15,979,768	15,979,768	28,850,697	31,959,536	3,108,839	10.78%
Local Assistance	447,116	407,684	447,116	447,116	854,800	894,232	39,432	4.61%
Grants	14,494,485	24,049,038	17,077,140	15,227,140	38,543,523	32,304,280	(6,239,243)	(16.19%)
Transfers	13,701	10,283	13,701	13,701	23,984	27,402	3,418	14.25%
Debt Service	0	500	0	0	500	0	(500)	(100.00%)
Total Costs	\$512,158,252	\$560,732,722	\$553,612,128	\$559,111,012	\$1,072,890,974	\$1,112,723,140	\$39,832,166	3.71%
General Fund	0	0	0	0	0	0	0	n/a
State Special	210,536,687	245,824,393	233,061,097	231,442,754	456,361,080	464,503,851	8,142,771	1.78%
Federal Special	301,621,565	314,908,329	320,551,031	327,668,258	616,529,894	648,219,289	31,689,395	5.14%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$512,158,252	\$560,732,722	\$553,612,128	\$559,111,012	\$1,072,890,974	\$1,112,723,140	\$39,832,166	3.71%

Agency Description

Mission Statement: To serve the public by providing a transportation system and services that emphasize quality, safety, cost effectiveness, economic vitality, and sensitivity to the environment.

The Department of Transportation is the agency responsible for administering the multimodal transportation network in Montana. The department plans, designs, builds, and maintains the statewide network of highways. It is responsible for collecting and distributing highway user fees and fuel taxes. The department enforces state and federal laws for commercial motor carriers and registers interstate fleet vehicles. The department also facilitates the operation and infrastructure of airports and airways in Montana, registers aircraft and pilots, and maintains several state-owned airports. The department represents Montana interests in railroad planning issues and supports local entities in overall transportation planning and transit assistance.

Agency Highlights

Department of Transportation Major Budget Highlights	
<ul style="list-style-type: none">◆ The proposed HB 2 total fund budget for the department would increase by \$39.8 million, or 3.7 percent, from the 2009 biennium to the 2011 biennium<ul style="list-style-type: none">• Contractor payments for the federal-aid construction program account for the largest increase and are at the federal FY 2008 funding levels and corresponding 2007 tentative construction plan• The state funded construction program is moved from the Construction Program to the Maintenance Program and would increase by \$12.3 million over the biennium to fund it at \$10.0 million per year or the level of maintenance of effort to maintain favorable federal funding rates• Increases in diesel fuel and gasoline prices contribute significantly to \$4.5 million in increases in equipment rental rates paid to the department's Equipment Program• Increasing the pavement marking program to typical annual levels would add \$3.8 million	

- Continuing to monitor commercial vehicles for safety issues around Montana's northern border would add \$3.5 million federal special revenue
- Funding for the Motor Carrier Safety Assistance Program and Expanded Commercial Vehicle Information Systems and Networks projects would add \$2.1 million state special revenue funding from Unified Carrier Registration fees
- Funding to provide grants to local transit entities to purchase buses would add \$2.1 million federal funds
- Higher costs for chemical deicing solution would add \$1.2 million state funds
- Realigning the management structure for motor carrier enforcement from three to five regions would add \$1.0 million state special revenue
- ♦ 11.00 FTE are added to the department budget for:
 - A funding switch to move a current 1.00 FTE from funding under a statutory appropriation to HB 2 funding to administer tribal fuel tax refunds and agreements
 - 8.00 FTE to increase coverage at Interstate 90 weigh stations
 - 1.00 FTE to coordinate projects of the department's traffic records strategic plan
 - 1.00 FTE to coordinate state and tribal highway safety initiatives
- ♦ Department-wide reductions are proposed to reduce funding for training

Major LFD Issues

- ♦ The highways state special revenue account is out of balance and projected to be depleted in FY 2010
 - Major revenue sources are no longer adequate for long-term highway funding
 - A comprehensive study of state transportation funding is recommended
- ♦ The federal highway trust fund is nearly depleted, federal funding has not been authorized for most of the 2011 biennium, and the federal-aid highways funding levels are speculative
- ♦ The fund that supports the operations of the Aeronautics Division is out of balance and nearly depleted

Agency Discussion

Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to program-specific goals and objectives raised by LFD staff are located in the program section.

2009 Biennium Major Goals

The following provides an update on the major goals monitored during the current interim

- Successes

- Pavement on state highways are being maintained above the goal level for condition and ride smoothness
 - Congestion on state highways is within desirable or superior ranges

Any issues related to program-specific goals and objectives raised by LFD staff are located in the program section.

Personal Services

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the Legislative Fiscal Division.

- Agency Market

- Agency current policy specifies entry at 100 percent of the 2006 executive branch market survey or to maintain internal equity within the department. The agency plans for a target market ratio of 100 percent for the 2011 biennium relative to the 2008 executive branch market survey
 - The agency estimates the personal services budget for the 2011 biennium would place the agency, on average, at 96 percent of the market of the 2008 executive branch market survey. Prior to making the October 1, 2008 adjustments for HB 13 of the 2007 Legislature, the agency average market ratio was 111 percent of market relative to the 2006 executive branch market survey
 - The agency has converted all employees, except blue collar workers, to the broadband pay plan as required in HB 13 of the 2007 Legislature
 - The agency states that since implementing the broadband pay plan and the agency market policy all programs have seen less turnover and less vacancies
 - The agency implemented the broadband pay plan by holding positions open and using the savings from these vacancies, HB 2 personal services funding, and HB 13 funding to place employees into a pay structure that ranges from 80 to 95 percent of market as determined in an independent market survey developed by a contractor of the agency

- Legislatively Imposed Vacancy Savings

- The agency used normal staff turnover to manage to the 4.0 percent legislatively applied vacancy savings rate.

LFD COMMENT

In FTE-hours the agency achieved an agency average of nearly 5.7 percent vacancy savings. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division underspent its personal services authority appropriated by the 2007 Legislature by 6.8 percent.

- Obstacles

- Other than funding, the agency has identified no obstacles to achieving its target market goal of 100 percent of market relative to the 2008 executive branch market survey

Other Major Issues the Department Faces

The legislature will be faced with making decisions on the department budget request that reflects the following general themes and will be explained in more detail below:

- A state fund with a history of instability and a major funding source that does not reflect current and future trends
- A federal fund showing signs of instability

Funding for Montana Highways

Vast Highway Network

Montana has a vast network of highways that plays a major role in Montana's transportation needs. Montana has nearly 70,000 centerline miles of public roads, of which the Department of Transportation (DOT) has responsibility for nearly 11,000. The remaining roughly 59,000 miles are mostly rural and municipal roads maintained by local governments or private citizens. The department would spend roughly \$1.1 billion in the 2011 biennium to maintain, rebuild, and operate the 11,000 miles of paved roads under its responsibility. Funding to support this effort would be roughly 42.0 percent from state sources and 58.0 percent from federal sources.

Sources of Revenue

The department is funded from a combination of state special revenue and federal special revenue. State special revenue can be grouped into two general categories: those that are protected by the state constitution and those that are not. The Constitution of the State of Montana states that revenues from gross vehicle weight fees and excise and license taxes on gasoline, fuel, and other energy sources that are used to propel vehicles on public highways are to be used solely for paying obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges; and for enforcement of highway safety, driver education, tourist promotion, and administrative collection costs. Non-restricted revenues are derived from special use permits and motor fuel penalties and interest payments. In the base and for the 2011 biennium all highway construction expenditures from state funds are accounted for in the highways state special revenue restricted account, which is used as the match for federal funding of the department.

Federal aid for highway construction is primarily realized from the distribution of revenue derived from federal excise taxes on motor fuels and other transportation products, such as heavy truck tires. Montana has historically received significantly more federal-aid highway construction funds than are collected in federal motor fuels excise taxes from Montana sources. Montana receives more than \$2.20 of federal funding for highways for every \$1.00 collected in the state and sent to the federal highway trust fund.

Federal-Aid Highway Funding

The department receives federal-aid highway funding from the Federal Highway Administration (FHWA), typically from authorizations in six-year funding bills. The current federal authorization legislation is called the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU provides authorization for federal-aid transportation programs and funding for federal fiscal years 2005 through 2009.

Since federal FY 2009 ends only one quarter into FY 2010 and Congress has not approved the next federal highway funding authorization, the department has developed a budget for the 2011 biennium using anticipated funding levels similar to what Montana received for federal FY 2009.

Sliding Scale Match

Montana currently receives federal highway construction funds based on a sliding scale match formula that includes factors for the amount of federal land in the state and the amount of financial contribution the state makes to maintain the federal-aid highway system with state dollars. The current match ratio is 87 percent federal to 13 percent state for reimbursable federal-aid projects. In order to maintain this favorable match, Montana must provide maintenance of effort by fully funding a certain level of construction activity with state funds. The department estimates that roughly \$10 million of state-funded highway construction is needed annually to maintain the current match ratio. A decision package

has been requested to bring the state funded construction program to this level (see DP 318 - State Funded Construction - Program Transfer in the Maintenance Program)

In order to utilize all of the federal funds allotted to the state, state funds must be available to provide: 1) planning functions required in the federal funding law; 2) maintenance of the federal-aid highway system to FHWA standards; 3) adequate management and oversight of federal-aid construction projects; 4) a minimum construction program supported by 100 percent state funds (\$10 million annually); 5) matching funds for federal-aid construction funds; and 6) adequate working capital to pay operating expenses with 100 percent state funds until federal reimbursement is provided. These factors all contribute to the need to maintain a certain working capital level to support cash flow obligations of the department. In the past, the department has referred to \$10.0 million as an adequate working capital balance.

The department budget request includes adjustments to shore up HSRA, the need for which is discussed below, but provide the necessary maintenance of effort to maintain the favorable match.

Highways State Special Revenue Account Working Capital Analysis

The highways state special revenue account provides the state funding to match more than \$320 million annually of federal transportation funding, with a resultant more than \$550 million of annual transportation spending to maintain and expand the state transportation infrastructure. The HSRA has historically experienced imbalances in which expenditures exceeded revenues. The following working capital analysis of HSRA shows the financial condition of the account going into the 2009 legislative session. The working capital analysis of HSRA is shown below. Separate analyses and figures are provided for the restricted (HSRA-R) and nonrestricted (HSRA-NR) accounts as they each have different legislative voting requirements and statutory designated revenues and restrictions.

Constitutional Restricted Account

The following describes working capital analysis of the highways state special revenue constitutionally restricted account.

Account Use - HSRA-R currently funds the operations of five programs of the DOT that administer, enforce, and support the construction, maintenance, and safe operations of Montana highways. HSRA-R also funds Long-range Building Program projects for DOT facilities and those of the Department of Fish, Wildlife and Parks (FWP) related to roadway activities, and for programs of the Department of Justice (DOJ) that support highway or motor vehicle activities. Programs of DOJ that are partially funded with HSRA are: 1) Legal Services Division; 2) Motor Vehicle Division; 3) Montana Highway Patrol; 4) Central Services Division; and 5) Information Technology Services Division. HSRA-R also funds statutory appropriations that total \$21.3 million per year, alcohol production incentives (gasohol) capped at \$6.0 million per year, and ethanol consumption incentives. The analysis assumes no changes in the allocations of the funds in future biennia, except that the department will comply with Montana law and not transfer the balance from HSRA-NR to HSRA-R as it has previously. Instead, funds will be directly appropriated from HSRA-NR. The executive budget for the 2011 biennium includes decision packages in the Department of Justice to fund portions of the current HSRA-R funding from HSRA-NR.

Assumptions Used in the Working Capital Projections - The working capital analysis for HSRA-R reflects actual expenditures for FY 2008, budgets appropriated by the 2007 Legislature for FY 2009, and the executive budget request for the 2011 biennium. For FY 2009, the analysis also assumes that all appropriations currently valid, including those approved for prior biennia for capital projects, would be fully expended. Revenue estimates for FY 2009 and the 2011 biennium are those approved by the Revenue and Transportation Interim Committee (November 2008) for those revenues of HSRA for which it makes recommendations.

Analysis Results - The working capital analysis for HSRA-R is illustrated on the following figure. Declining revenues and increasing expenditures are depleting the HSRA-R balance. HSRA-R entered FY 2009 with a positive \$41.1 million balance. If all valid appropriations are expended and a supplemental appropriation proposed by the executive of \$2.6 million is approved, HSRA-R will begin the 2011 biennium with a \$5.4 million balance. However, revenue shortfalls

would deplete the balance part way through FY 2010. Revenue shortfalls total \$34.4 million for the 2011 biennium would leave the legislature with a \$29.0 million funding gap at the end of the 2011 biennium. Even if the \$29.0 million imbalance were corrected, HSRA-R would end the 2011 biennium without any reserves.

Working Capital Balance				
Highways State Special Revenue - Restricted Account				
Fiscal Years 2008 - 2011				
(in Millions)				
Description	FY 2008 Actual	FY 2009 Approp.	FY 2010 Budget	FY 2011 Budget
Beginning Working Capital Balance	\$24.0	\$41.1	\$5.4	(\$12.7)
Revenues				
Gasoline tax (net of refunds)	125.4	117.8	117.2	116.6
Diesel tax (net of refunds)	71.5	65.1	66.0	67.0
GVW	22.1	22.5	22.9	23.8
Federal indirect cost recovery	37.8	43.0	41.5	42.7
Other revenues:				
Transfer in from highways nonrestricted account	11.4	2.8	0.0	0.0
All other revenues	<u>13.5</u>	<u>8.3</u>	<u>8.3</u>	<u>8.3</u>
Total other revenues	24.9	11.1	8.3	8.3
Revenue deductions:				
Gasahol tax reduction	(1.0)	(1.4)	(1.7)	(2.1)
Alcohol production incentives (15-70-522, MCA)	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total revenue deductions	(1.0)	(1.4)	(1.7)	(2.1)
Total Revenues	<u>\$280.6</u>	<u>\$258.2</u>	<u>\$254.2</u>	<u>\$256.3</u>
Expenditures				
Department of Transportation (DOT)				
Statutory appropriations	20.9	20.9	21.3	21.3
HB 2 and HB 13	208.1	238.3	227.9	228.2
Supplemental appropriation		2.6		
Non-budgeted transactions (including carry forw	<u>4.3</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total DOT	233.3	261.9	249.3	249.5
Department of Justice (DOJ)	27.4	28.7	19.8	19.8
Long-range Building Program				
Maintenance and repair of DOT buildings	1.3	2.9	2.5	2.5
Department of Fish, Wildlife & Parks	<u>1.0</u>	<u>0.4</u>	<u>0.8</u>	<u>0.8</u>
Total Long-range Building Program	2.2	3.3	3.3	3.3
Total Expenditures	<u>\$263.0</u>	<u>\$293.9</u>	<u>\$272.3</u>	<u>\$272.6</u>
Revenues less expenditures	17.6	(35.7)	(18.1)	(16.3)
Adjustments	(0.6)			
Ending Working Capital Balance (without reversion	<u>\$41.1</u>	<u>\$5.4</u>	<u>(\$12.7)</u>	<u>(\$29.0)</u>

Not included in the estimates for the 2011 biennium are pay plan increases that would increase personal services funding, which had not been made public by the executive as of this writing. Assuming the legislature approves a pay plan bill that increased annual funding by 3 percent per year partially through the fiscal years, as it has in the past, additional costs for a pay plan would increase HSRA-R expenditures by \$2.7 million in FY 2010 and \$6.9 million in FY 2011. Pay plan increases would increase the \$29.0 million funding deficit to \$38.6 million by the end of the 2011 biennium.

Analysis Will Likely Change - The department has submitted a budget request for the 2011 biennium based on federal funding levels for federal FY 2008. The federal FY 2009 levels have been provided by FHWA to the department and the department is in the process of revising its construction plans to address those revised funding levels. Historically, the department revises several of the key budget adjustments from the ones presented in the request analyzed by legislative staff to reflect a revised and updated construction plan. The legislature should be advised that the department request will likely change prior to appropriations subcommittee hearings and the working capital analysis will change as well. See the Program Narrative for the Construction Program for further details of likely changes.

A further discussion of issues with long-term revenue outlook is included in the issues section.

Nonrestricted Account

The following describes working capital analysis of the highways state special revenue nonrestricted account.

Account Use – HSRA-NR currently funds annual transfers of \$0.1 million to the noxious weed trust fund. During past and the current biennium, the department transferred the balance from HSRA-NR to HSRA-R and made expenditure of these funds with appropriation of HSRA-R funds. The Legislative Finance Committee identified this practice as not being allowed in statute and directed the executive to propose a budget that funds appropriations directly from HSRA-NR for the 2011 biennium. The working capital balance for HSRA-NR reflects this direction. To implement the Legislative Finance Committee concern, the executive funded portions of the Department of Justice with HSRA-NR.

Assumptions Used in the Working Capital Projections - The working capital analysis for HSRA-NR includes actual activity for FY 2008 including revenues and transfers, whether specified in statute or not allowed. For FY 2009, only the statutory transfer to the noxious weed account and the first quarter FY 2009 transfer to HSRA-R were included as expenditures. Expenditures for the 2011 biennium are the executive budget request to fund a portion of DOJ directly with HSRA-NR. Revenue estimates for FY 2009 and the 2011 biennium are those approved by the Revenue and Transportation Interim Committee (November 2008) for those revenues of HSRA for which it makes a recommendation or FY 2008 levels for those where it does not.

Analysis Results - The working capital analysis for HSRA-NR is illustrated on the following figure. The analysis shows that if the HSRA-NR balance is not transferred to HSRA-R for the final three quarters of FY 2009, the balance entering the 2011 biennium would be just under \$8.9 million. For the 2011 biennium, revenues are projected to exceed planned expenditures by just over \$3.2 million and FY 2011 would end with a balance of \$12.1 million. This balance would be available for the legislature to appropriate, perhaps to offset a portion of the shortfall of HSRA-R funds.

Working Capital Balance Highways State Special Revenue - Nonrestricted Account Fiscal Years 2008 - 2011				
Description	FY 2008 Actual	FY 2009 Approp.	FY 2010 Budget	FY 2011 Budget
Beginning Working Capital Balance	\$95,773	\$151,747	\$8,880,727	\$10,442,616
Revenues				
Transfer in from the general fund	3,096,301	3,142,746	3,189,887	3,237,735
HJR 2 estimated GVW	8,130,991	8,217,454	8,305,045	8,394,857
All other revenues	<u>236,957</u>	<u>236,957</u>	<u>236,957</u>	<u>236,957</u>
Total Revenues	<u>\$11,464,249</u>	<u>\$11,597,157</u>	<u>\$11,731,889</u>	<u>\$11,869,549</u>
Expenditures				
Department of Justice	0	0	10,070,000	10,120,000
Nonbudgeted transfer out - to restricted account (see Note	11,309,235	2,768,177	0	0
Statutory transfer to noxious weed state special revenue ac	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Total Expenditures	<u>\$11,409,235</u>	<u>\$2,868,177</u>	<u>\$10,170,000</u>	<u>\$10,220,000</u>
Revenues less expenditures	55,014	8,728,980	1,561,889	1,649,549
Adjustments	960			
Ending Working Capital Balance	<u>\$151,747</u>	<u>\$8,880,727</u>	<u>\$10,442,616</u>	<u>\$12,092,165</u>
Note 1: Not allowed in 15-70-125, MCA				

LFD ISSUE

Condition of Roads and the Link to Funding

The state highway fund is still solvent, and the fund can always be balanced if construction and maintenance expenditures are adjusted to conform to funding realities. However, what are the impacts to the condition of the roads from balancing the fund through these means and what are the impacts from a stressed federal funding source and federal funding uncertainties of the road conditions (discussed in the following sections)?

The mission of the department is to serve the public by providing a transportation system and services that emphasize quality, safety, cost effectiveness, economic vitality, and sensitivity to the environment. It does this primarily by managing the state highway infrastructure so it will allow the public to safely travel, without unnecessary congestion, at a cost that is not financially overburdening, and in a way that is sensitive to the environment. Safety of the highways and the driving experience of the traveling public are strongly influenced by the condition of this infrastructure.

The department has established program goals to fulfill this mission. The legislature may wish to discuss with the department how the current financial conditions of the funds that support the mission of the department and the federal funding uncertainties will impact highway conditions and what performance indicators are appropriate to monitor. The legislature may also wish to recommend that the Legislative Finance Committee monitor the performance indicators during the interim. The goal monitored in the 2009 biennium is one way the legislature could continue to monitor the outcomes related to road and bridge condition, traffic safety, and congestion during the 2011 biennium.

The legislature may also want to address the financial condition of HSRA-R and other factors that may impact the

**LFD
ISSUE (cont.)**

long- term funding for highways.

Both the state and federal funds that support construction and maintenance of highways are stressed. The condition of state funds was discussed earlier. The following discusses the condition of the federal fund and federal funding uncertainties.

Federal Funding Uncertainties

The legislature will be faced with uncertainties imposed by a broken federal trust fund, no federal highway authorization for the majority of the 2011 biennium, and economic stimulus. All will impact the highway construction projects that can be planned by the department and will add a dimension of speculation to the department's budget, especially in areas impacted by federal funds.

The source of federal funds, the federal highway trust fund, is not financially solvent and the Congress will be asked to fix the solvency of this funding source. Also, the mechanism used to allocate federal funds to states to fund national transportation priorities will end after the first quarter of FY 2010 and the Congress still needs to address this funding mechanism. Congress' actions to fix the federal fund solvency and to set the allocations of future federal transportation funds to states may not occur until after the legislature completes its work in the 2009 legislative session.

Federal Highway Trust Fund - In September 2008, the Secretary of the U.S. Department of Transportation (US DOT) announced that the federal highway trust fund was basically broke. Projections indicated that the fund would have a zero balance by the end of the month and revenues for the remainder of federal FY 2009 were expected to be several billion dollars lower than authorized expenditures to states for construction highway projects already committed to. Congress responded by infusing a little over \$8 billion into the fund from the general fund to allow the fund to meet its financial commitments for the remainder of SAFETEA-LU. When the secretary announced the fund was broke and prior to the general fund infusion, the US DOT took actions that impacted state funding by limiting and delaying federal reimbursements to states for previously authorized participation in federally funded highway projects. This action caused states to fund ongoing highway projects with state funds for longer than typical without receiving anticipated federal reimbursements. State highway funding cash flow could be adversely impacted if this event occurs again. This contingency places added emphasis on the need to maintain an adequate fund balance in HSRA-R. In the past, the department has stated that a \$10 million balance should be maintained.

Federal Funding Authorization - The current federal authorization legislation that funds federal participation in state transportation projects expires at the end of federal FY 2009, which is September 30, 2009. When Congress approves a new federal transportation authorization, the status and long-term viability of the federal highway trust fund will have a significant impact on the level of funding states receive to support highways. The fact that the authorization will likely occur after the legislature completes its business and the actions Congress will take to return the federal trust fund to a viable fund place a great deal of speculation on the department in determining its funding request for the 2011 biennium.

Economic Stimulus - Current discussions being publicized by President-elect Obama to address the current economic recession include creating jobs through funding for infrastructure. The current discussions focus around stimulating the economy by funding projects on the nation's roads and bridges. The current state of this funding is uncertain but the legislature may want to consider it in its discussions for the 2011 biennium budget of the department.

**LFD
ISSUE****Funding for the 2011 Biennium**

As discussed above, how much federal funds and how much state funds will be needed to match these federal funds for the 2011 biennium is not known. Current discussions of economic stimulus to address the current national recession include providing funding directed at the nation's roads and bridges. Yet, the legislature will need to establish 2011 biennium appropriations for the department.

**LFD
ISSUE (cont.)**

The legislature may wish to discuss with the department how it would use various levels of federal funds within and above the level included in the department's budget. In the discussion, the legislature may want to include impacts for the following:

- How the funding would impact the condition of the highway infrastructure
- How the funding would impact the condition of the state highway fund
- How the legislature could monitor the outcomes in terms of condition of the highway infrastructure and safety and driving experience of the traveling public from the funding

In establishing the appropriations policy, the legislature may wish to use the performance measurements process as a tool for prioritizing expenditures of the department. The legislature may want to discuss which of the goals it considers key for the department to fulfill the mission and establish an appropriations policy around these key goals and their objectives. For instance, the legislature may want to focus its attention on the goals for the programs that expend the most state funds or would have the greatest impact on the condition of the transportation infrastructure. Below in descending order are the programs and their biennium HSRA-R funding for the 2011 biennium:

- Maintenance Program (\$230.2 million)
- Construction Program (\$155.1 million)
- General Operations Program (\$48.8 million)
- Motor Carrier Services Division (\$16.0 million)
- Rail, Transit, and Planning Division (\$6.0 million)

**LFD
ISSUE**Funding Highway Infrastructure for the Long-term

Motor fuel tax revenues comprise 70 percent of HSRA-R revenues. Recently, motor fuel tax revenues have been declining for a number of factors, much of which are related in one way or another to high fuel costs or the weakening economic situation. As the price of fuel goes up, consumers react by reducing travel where they can and purchasing more fuel efficient or alternate fuel vehicles. The same behaviors are expected in response to weakening economic conditions as consumers tighten their financial belts. The effect of these consumer behaviors is that fuel consumption has declined, which results in lower motor fuel tax collections for both the state and the federal funds that support highway construction, operations, and maintenance activities. Declining revenue felt by these consumer behavior changes is not isolated to state finances. The federal revenues are also declining and causing similar funding issues with the federal highways trust fund.

For years motor fuel taxes have been the major funding source for state and federal highway funds. However, as driver behaviors change and highway funds are used to fund other transportation functions that are not directly related to motor fuel consumption patterns, the benefit principle that once justified using motor fuel tax revenues to fund highway functions is no longer relevant. Simply stated, the benefit principle tells us that consumers of government services should be taxed in proportion to the benefit they obtain from those services. For motor fuel taxes charged for fueling automobiles, the benefit principle means that motor fuel taxes should be used exclusively to fund roads the vehicles drive on. Locally and nationally, motor fuel tax revenues now fund non-road functions that are funded with motor fuel taxes but don't participate in funding their costs in equal proportion to the benefits received or the outcome intended such as transit facilities and operations, bike and pedestrian trails and facilities, roadside beautification, and tax incentives for biofuel production facilities and biofuel use.

As driver patterns change to more fuel efficient vehicles and vehicles powered by alternative fuel sources that do not generate motor fuel taxes (electric and hybrid vehicles), factors that contribute to the need to expand the highway capacity, and operate and maintain highways continue to increase the cost for highways, but revenues from motor fuel taxes are declining. This in itself shows that motor fuel taxes are less compatible as a major revenue source for providing adequate funding for highways.

Just as the federal government found when the federal highway trust fund began to fail and it commissioned a study of

**LFD
ISSUE (cont.)**

federal highway funding, the major revenue source that funds highways in Montana may no longer be appropriate to fund these state functions into the future. Declining revenues and increasing costs have constantly impacted the account's long-term viability and the driving experience of the traveling public.

The time may now be right to take a more holistic look at the Montana highway funding model with an eye on restoring it to a viable fund for the long term.

Options available to the legislature to ensure the long-term viability of state transportation funding include:

- Do nothing and continue to rely on the executive to manage the fund or propose solutions
- Direct the executive to evaluate state transportation funding and provide recommendations to the legislature
- Conduct a legislative study of state transportation funding and make recommendations to the legislature

The legislature may want to consider a study resolution for the next interim to look at all aspects of highway funding in Montana. Such a study could be limited to identifying and addressing weaknesses in fuel taxes as a major source of funding Montana's highways, or it could expand into all areas of sources and uses of funds for Montana's transportation system with the goal of restoring long-term sustainability of all aspects of Montana's transportation infrastructure.

Common Adjustments in all Programs

Three adjustments appear in nearly all programs and are summarized in the following figures to aid the legislature in seeing the combined impacts of the adjustments to all programs of the agency:

- Overtime and differential pay
- Equipment rental
- Training reductions

The following figure provides comparisons for all programs for the overtime and differential pay and the equipment rental adjustments against base expenditures. The adjustments are described separately below.

Overtime and Differential Pay

Adjustments to establish funding for overtime and differential pay are included in all programs. Funding is also added to fund salary related costs for benefits, insurance, and employer taxes. For the department these costs increase \$1.4 million over the doubled base of roughly \$10 million. The figure shows the requested amounts for the biennium and the doubled base expenditure to show biennium comparisons. For the biennium, \$11.4 million would fund overtime, differential pay, and per diem for department FTE funded in HB 2. Additional funding for overtime and differential pay is included in the rates for proprietary funded programs, such as the State Motor Pool and the Equipment Program.

Equipment Rental

The department operates a proprietary funded program to purchase and maintain equipment used exclusively by programs of the department. The Equipment Program manages the equipment items that support the functions of the department, such as snowplows and sanders, motor carrier services enforcement vehicles, and lawn and weed mowers. Programs fund the Equipment Program by paying for usage of the equipment. The Equipment Program has requested increases to the rates it charges. The adjustments shown under the Equipment Rental heading on the figure are requested to provide funding to pay the increases in the Equipment Program rates for the 2011 biennium. For the biennium, the equipment rental adjustment totals \$4.5 million for the department. A discussion of the requested equipment rental rates is contained in the proprietary discussion for the Equipment Program.

2011 Biennium Common Decision Packages Overtime and Differential Pay and Equipment Rental								
Program		Overtime	Differential Pay	Benefits	Per Diem	Biennium Total		Equipment Rental
01 - General Operations	DP 1002	\$85,930	\$1,170	\$13,066	\$0	\$100,166	DP 1001	\$5,376
	Base x 2	<u>106,732</u>	<u>184,384</u>				Base x 2	<u>65,766</u>
	Change	<u>(\$20,802)</u>	<u>(\$183,214)</u>				Growth	<u>8.2%</u>
02 - Construction	DP 0215	\$4,881,260	\$40,264	\$738,226	\$5,300	\$5,665,050	DP 0214	\$740,296
	Base x 2	<u>4,532,910</u>	<u>309,860</u>		<u>5,300</u>		Base x 2	<u>8,216,660</u>
	Change	<u>\$348,350</u>	<u>(\$269,596)</u>		<u>\$0</u>		Growth	<u>9.0%</u>
03 - Maintenance	DP 0301	\$3,935,986	\$567,384	\$675,508		\$5,178,878	DP 0302	\$3,676,205
	Base x 2	<u>3,935,986</u>	<u>606,670</u>				Base x 2	<u>44,976,638</u>
	Change	<u>\$0</u>	<u>(\$39,286)</u>				Growth	<u>8.2%</u>
22 - Motor Carrier Service	DP 2210	\$260,002	\$49,096	\$46,390		\$355,488	DP 2208	\$56,776
	Base x 2	<u>160,980</u>	<u>75,854</u>				Base x 2	<u>634,172</u>
	Change	<u>\$99,022</u>	<u>(\$26,758)</u>				Growth	<u>9.0%</u>
40 - Aeronautics	DP 4003				\$3,900	\$3,900		
	Base x 2				<u>3,900</u>			
	Change				<u>\$0</u>			
50 Rail, Transit, & Planning	DP 5003	\$2,258	\$48,332	\$7,588		\$58,178	DP 5002	\$25,864
	Base x 2	<u>2,258</u>	<u>48,332</u>				Base x 2	<u>316,422</u>
	Change	<u>\$0</u>	<u>\$0</u>				Growth	<u>8.2%</u>
Total for all programs						<u>\$11,361,660</u>		<u>\$4,504,517</u>

Training Reductions

The department has included budget adjustments that would cap the biennium funding for training costs in all programs in the department at \$1.0 million. This was one of several measures taken by the department to reduce funding from the highways state special revenue account due to previously identified fund concerns. The following figure shows the training reduction for all programs of the department for the 2011 biennium.

Training Program				
Program	Decision Package	FY 2010	FY 2011	2011 Biennium
01 General Operations Program	DP 1301 Training Reducti	(\$8,600)	(\$8,600)	(\$17,200)
02 Construction Program	DP 0216 Training Reducti	(119,924)	(119,924)	(239,848)
03 Maintenance Program	DP 0303 Training Reducti	(30,628)	(30,628)	(61,256)
40 Aeronautics Program	DP 4006 Training Reducti	(3,942)	(3,942)	(7,884)
50 Rail, Transit, & Planning Divi	DP 5001 Training Reducti	(540)	(540)	(1,080)
		<u>(\$163,634)</u>	<u>(\$163,634)</u>	<u>(\$327,268)</u>

Supplemental Appropriations Description

The executive states that a \$20.0 million supplemental appropriation will be requested for the department to make contractor payments and capital outlays in the Construction Program. The supplemental appropriation would request

\$17.4 million, or 87 percent, in federal funding and \$2.6 million, or 13 percent, in state funding. State funds would come from the constitutionally restricted highways state special revenue account.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual narratives that follow.

Total Agency Funding 2011 Biennium Budget				
Agency Program	State Spec.	Fed Spec.	Grand Total	Total %
01 General Operations Program	\$ 48,842,903	\$ 3,131,766	\$ 51,974,669	4.67%
02 Construction Program	155,117,675	585,786,378	740,904,053	66.58%
03 Maintenance Program	230,180,311	15,109,834	245,290,145	22.04%
22 Motor Carrier Services Div.	18,580,281	6,384,896	24,965,177	2.24%
40 Aeronautics Program	3,717,385	284,539	4,001,924	0.36%
50 Rail, Transit, & Planning Division	8,065,296	37,521,876	45,587,172	4.10%
Grand Total	<u>\$ 464,503,851</u>	<u>\$ 648,219,289</u>	<u>\$ 1,112,723,140</u>	<u>100.00%</u>

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations Department of Transportation					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i><u>Direct Bearing on Agency Operations</u></i>					
A Governor declared emergency/disaster	10-3-312	General Func	\$30,461	\$0	\$0
Debt service payments & issuing costs	17-7-502	SSR	875,690	12,956,696	12,954,496
		FSR	<u>11,877,906</u>	<u>4,053,350</u>	<u>4,049,588</u>
Total debt service payments & issuing costs			12,753,596	17,010,046	17,004,084
<i><u>Does Not Relate Directly to Agency Operations</u></i>					
Fuel taxes to local govt. for road work	15-70-101	SSR	16,766,000	16,766,000	16,766,000
Tribal reimbursements and DOR administrat	18-11-112	SSR	3,806,739	3,974,667	3,974,667

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	512,158,252	512,158,252	1,024,316,504	92.05%
Statewide PL Adjustments	0	0	0	0.00%	6,001,013	6,360,400	12,361,413	1.11%
Other PL Adjustments	0	0	0	0.00%	31,657,501	37,087,058	68,744,559	6.18%
New Proposals	0	0	0	0.00%	3,795,362	3,505,302	7,300,664	0.66%
Total Budget	\$0	\$0	\$0		\$553,612,128	\$559,111,012	\$1,112,723,140	

Language and Statutory Authority

The executive recommends the following language for the department:

"The department may adjust appropriations in the general operations, construction, maintenance, and transportation planning programs between state special revenue and federal special revenue funds if the total state special revenue authority for these programs is not increased by more than 10% of the total appropriations established by the legislature for each program."

"All federal special revenue appropriations in the department are biennial."

"All appropriations in the general operations, construction, maintenance, and transportation planning programs are biennial."

"All remaining federal pass-through grant appropriations for highway traffic safety, including reversions for the 2009 biennium, are authorized to continue and are appropriated in fiscal year 2010 and fiscal year 2011."

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	187.37	187.37	188.37	188.37	187.37	188.37	1.00	0.53%
Personal Services	11,519,695	12,917,898	13,026,656	13,074,113	24,437,593	26,100,769	1,663,176	6.81%
Operating Expenses	10,902,842	12,623,317	12,692,139	12,523,689	23,526,159	25,215,828	1,689,669	7.18%
Equipment & Intangible Assets	31,859	393,141	31,859	31,859	425,000	63,718	(361,282)	(85.01%)
Grants	297,177	649,444	297,177	297,177	946,621	594,354	(352,267)	(37.21%)
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	0	500	0	0	500	0	(500)	(100.00%)
Total Costs	\$22,751,573	\$26,584,300	\$26,047,831	\$25,926,838	\$49,335,873	\$51,974,669	\$2,638,796	5.35%
General Fund	0	0	0	0	0	0	0	n/a
State Special	21,045,984	24,970,490	24,482,263	24,360,640	46,016,474	48,842,903	2,826,429	6.14%
Federal Special	1,705,589	1,613,810	1,565,568	1,566,198	3,319,399	3,131,766	(187,633)	(5.65%)
Total Funds	\$22,751,573	\$26,584,300	\$26,047,831	\$25,926,838	\$49,335,873	\$51,974,669	\$2,638,796	5.35%

Program Description

The General Operations Program provides overall policy direction and management to the agency, administers motor fuel taxes, and provides administrative support services for the department, including general administration and management, accounting and budgeting, public affairs, information technology services, human resources activities, compliance review, and goods and services procurement.

Program Highlights

General Operations Major Budget Highlights	
♦	The division HB 2 budget would grow by \$2.6 million, or 5.4 percent, from the 2009 biennium to the 2011 biennium <ul style="list-style-type: none"> • Statewide present law adjustments account for most of the increase with about two thirds due to personal services and one third due to fixed costs • Computer system maintenance cost increases and system modifications would add \$457,500 • Credit card transaction fee increases would add \$137,000 • A funding shift to move 1.00 FTE from a statutory appropriation to HB 2 funding to administer tribal fuel tax refunds and agreements would add \$79,400
Major LFD Issues	
♦	Increases for a maintenance contract to administer and enforce motor carrier laws are caused by enhancements funded in prior years

Program Narrative

2009 Biennium Major Goals Monitored

No goals specific to this program were monitored during the 2009 biennium

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

Human Resources Division

- Reduce work injuries by implementing a job safety analysis process to identify, analyze, and record potential safety and health hazards to reduce the risk of a workplace injury or illness
- Ensure a safe working environment for all work locations by increasing oversight, training, and consultation services to managers and employees
- Reduce the cost of insurance premiums by participating in defensive driving, property loss management, and early-return-to-work programs

LFD ISSUE

No Measurable Objectives Provided

The agency provided goals for the human resources organization but failed to provide corresponding objectives. Besides being required in statute, measurable objectives would allow the legislature to establish an appropriations policy for the division. Decision packages are included for this program that request that the legislature approve funding increases for occupational health and safety specialist travel costs. Identifying how the functions performed by these specialist contribute to attainment of the above goals and measuring the effectiveness toward the outcomes of reducing injuries, ensuring safe working environments, and reducing insurance costs would enable the legislature to evaluate the use of the funding at a later date. The legislature may wish to discuss development of measurable objectives with the division and how it would monitor the outcomes from the associated funding to determine if the funding was providing the intended outcomes.

Information Service Division

- Maintain existing application systems
 - Correct all department application bug fixes within 24 hours of problem identification

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table General Operations Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ -	-	\$ -	-
01100 General Fund	-	-	-	-	-	-
02000 Total State Special Funds	21,045,984	92.5%	24,482,263	94.0%	24,360,640	94.0%
02213 Off Highway Vehicle Gas Tax	-	-	-	-	-	-
02328 Ohv Gas Tax - Con Ed	-	-	-	-	-	-
02329 Snowmobile Fuel Tax-Enforcemnt	-	-	-	-	-	-
02330 Snowmobile Fuel Tax-Con Ed	-	-	-	-	-	-
02349 Highway Non-Restricted Account	-	-	-	-	-	-
02407 Snowmobile Fuel Tax	-	-	-	-	-	-
02412 Motorboat Fuel Tax	-	-	-	-	-	-
02422 Highways Special Revenue	21,045,984	92.5%	24,482,263	94.0%	24,360,640	94.0%
02827 Aeronautics Division	-	-	-	-	-	-
03000 Total Federal Special Funds	1,705,589	7.5%	1,565,568	6.0%	1,566,198	6.0%
03407 Highway Trust - Sp Rev	1,705,589	7.5%	1,565,568	6.0%	1,566,198	6.0%
Grand Total	\$ 22,751,573	100.0%	\$ 26,047,831	100.0%	\$ 25,926,838	100.0%

The General Operations Program is funded from the highways state special revenue fund and federal special revenue. The highways state special revenue fund receives revenue primarily from motor fuel taxes, gross vehicle weight permit fees, and reimbursements for indirect costs associated with the federal-aid highway program via a Federal Highways Administration (FHWA) approved indirect cost plan. Federal funding is available for assistance for disadvantaged businesses, training, fuel tax evasion prevention efforts, and direct administrative expenses associated with the federal-aid highway program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	22,751,573	22,751,573	45,503,146	87.55%
Statewide PL Adjustments	0	0	0	0.00%	2,794,321	2,628,228	5,422,549	10.43%
Other PL Adjustments	0	0	0	0.00%	433,430	487,638	921,068	1.77%
New Proposals	0	0	0	0.00%	68,507	59,399	127,906	0.25%
Total Budget	\$0	\$0	\$0		\$26,047,831	\$25,926,838	\$51,974,669	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,956,439					2,005,433	
Vacancy Savings				(539,048)					(541,003)	
Inflation/Deflation				9,705					10,944	
Fixed Costs				1,367,225					1,152,854	
Total Statewide Present Law Adjustments				\$2,794,321					\$2,628,228	
DP 1001 - Equipment Rental	0.00	0	3,065	0	3,065	0.00	0	2,311	0	2,311
DP 1002 - Overtime/Differential	0.00	0	43,417	6,666	50,083	0.00	0	43,417	6,666	50,083
DP 1101 - Office Equipment Cost Reduction	0.00	0	(1,754)	0	(1,754)	0.00	0	(1,754)	0	(1,754)
DP 1301 - Training Reduction	0.00	0	(8,600)	0	(8,600)	0.00	0	(8,600)	0	(8,600)
DP 1302 - District Health & Safety Specialists	0.00	0	45,000	0	45,000	0.00	0	45,000	0	45,000
DP 1401 - Merchant Credit Card Fees	0.00	0	52,590	0	52,590	0.00	0	84,383	0	84,383
DP 1402 - Tribal Refund FTE	1.00	0	39,487	0	39,487	1.00	0	39,905	0	39,905
DP 1404 - Fuel Tax Evasion Travel	0.00	0	0	10,250	10,250	0.00	0	0	10,250	10,250
DP 1503 - Computer Services Contract	0.00	0	202,357	0	202,357	0.00	0	225,108	0	225,108
DP 1506 - IT Maintenance Costs	0.00	0	40,952	0	40,952	0.00	0	40,952	0	40,952
Total Other Present Law Adjustments										
	1.00	\$0	\$416,514	\$16,916	\$433,430	1.00	\$0	\$470,722	\$16,916	\$487,638
Grand Total All Present Law Adjustments				\$3,227,751					\$3,115,866	

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

o Market Rate

- The General Operations Program follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified
- The statewide personal services adjustment represents salaries for the division at an estimated 101 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 110 percent of market relative to the 2006 executive branch market survey

o Vacancy

- The division has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention

o Legislatively Applied Vacancy Savings

- The division used carry forward authority or held vacant positions open as needed to achieve the 4.0 percent legislatively applied vacancy savings rate

LFD COMMENT

In terms of FTE-hours, the division experienced a 9.4 percent vacancy rate, with hours expended exceeding calculated hours available from authorized FTE. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division under spent its personal services authority appropriated by the 2007 Legislature by 5.6 percent.

- Pay Changes

- Pay increases given to division staff were limited primarily to career ladder increases and the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature. The 0.6 percent was given to selected individuals to achieve the agency internal equity policy or who were below the target market ratio for their position. Career ladder pay increases were outside HB 13 and were funded with savings from vacancies and carry forward funds

**LFD
COMMENT**

Career ladder increases were given to positions that are covered under the division's career ladder progression plan. The division has 68 positions or 67.05 FTE in career ladder positions. Of these, 12 or 17.6 percent received career ladder increases in FY 2008.

Career ladder positions are in the following job groups:

- Computer systems analyst
- Computer support technician
- Lithographic press operator
- Auditor
- Purchasing agent

- Retirements

- The division anticipates 23 employees would be eligible for full retirement (30 years of state service or 60 years of age) in the 2011 biennium. The agency was unable to determine the 2011 biennium unfunded compensated absence liability cost if these employees retired

DP 1001 - Equipment Rental - An increase of nearly \$5,400 state special revenue for the biennium is requested to fund the program share of proposed increases in the Equipment Program - an internal service program exclusively serving programs of the Department of Transportation. A discussion of the equipment rental rates is contained in the proprietary discussion for the Equipment Program. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 1002 - Overtime/Differential - An increase of nearly \$100,200 combined state special and federal special revenue for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$13,100 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 1101 - Office Equipment Cost Reduction - A reduction of \$3,500 state special revenue for the biennium is proposed to reduce funding to reflect the purchase of equipment in the base that will not be purchased in the 2011 biennium. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 1301 - Training Reduction - A reduction of \$17,200 state special revenue for the biennium is proposed to reduce funding for training. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 1302 - District Health & Safety Specialists - An increase of \$90,000 state special revenue for the biennium is requested to fund occupational health and safety specialist travel costs that were not expended in the base because they were assigned to each district office in May of the base year. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**

According to the department, the travel costs will be ultimately funded with the early-return-to-work rebates that the department receives to offset workers' compensation insurance premiums. The rebate will be used because the department assumes that observations and recommendations made by the specialists would likely result in reductions of work injuries and vehicle accidents, as well as fewer instances of property damage and loss. In turn, the department anticipates lower insurance premiums, an increase in production due to less downtime and missed work shifts, and lower maintenance and repair costs associated with preventable vehicle and property damage. Past early-return-to-work rebates for the department have grown from \$115,408 in FY 2003 to \$273,065 in FY 2008.

DP 1401 - Merchant Credit Card Fees - An increase of \$137,000 state special revenue for the biennium is requested to pay rising merchant credit card fees that result as more permits, licenses and other department services are paid with credit cards. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 1402 - Tribal Refund FTE - An increase of \$79,400 state special revenue for the biennium is requested to fund 1.00 FTE. A recent Legislative Financial Compliance Audit recommended that MDT charge costs of administering the motor fuels tax under tribal agreements to the tribal motor fuel administration account in accordance with state law. This request is to include the 1.00 FTE for the statutory administrative assistant position in the state appropriation bill (HB 2) at a cost of \$79,392 in highway state special revenue for the biennium.

DP 1404 - Fuel Tax Evasion Travel - An increase of \$20,500 federal special revenue for the biennium is requested for out-of-state travel and lodging costs associated with fuel tax evasion training. Funding is from a federal fuel tax evasion grant.

DP 1503 - Computer Services Contract - An increase of \$457,500 state special revenue for the biennium is requested for a scheduled increase in the maintenance contract with Affiliated Computer Services (ACS) and enhancements to the various permitting, registration, and licensing systems offered by ACS. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
ISSUE****Enhancements Drive up Maintenance Costs**

The since the 2005 legislative session, the legislature has appropriated funds for both maintenance contract costs and enhancements of the ACS computer system. As enhancements have been made, the maintenance contract costs have risen. The following figure shows how the maintenance contract costs have risen after enhancements have been made. Maintenance contract costs become an annual operating for the system.

Funding for Affiliated Computer Services (ACS)				
Biennium	Maintenance Contract			Enhancements (2)
	Base (1)	First Year Adjustments	Second Year Adjustments	
2007 (appropriated)	\$770,000	\$0	\$0	\$465,662
2009 (appropriated)	770,000	34,449	56,151	400,000
2011 (proposed)	804,449	171,032	193,783	62,650
2013 (forecast)	975,481			

Note 1: Assumes first year appropriation adjustments are expended as appropriated

Note 2: 2007 biennium appropriations for enhancements were one time only

The department uses ACS to administer and enforce state and federal commercial motor carrier laws and regulations and administer interstate motor carrier registration and motor fuel tax agreements. The department has previously stated that enhancements are made in order to further the productivity of department employees, provide quicker services to the citizens of Montana, especially commercial truckers, and to continue to meet legislative and best practice requirements.

Since enhancements to the system are a significant factor for increases in annual maintenance contract costs, the legislature may want to have the department quantify how the benefits gained from the enhancements provide more value than the resultant costs to provide the benefits. The legislature may wish to direct the agency to provide specific, measurable, accountable, realistic, and time bound measures (SMART) when comparing the costs to the benefits.

DP 1506 - IT Maintenance Costs - An increase of \$82,000 state special revenue for the biennium is requested to meet rising costs to maintain and repair printers and computers, and to purchase software licenses to meet department users' needs. Of the request, \$16,000 is for a maintenance agreement for new automated work paper software used by the unit responsible for department internal auditing. State special revenue funding is entirely from the restricted highways state special revenue account.

New Proposals

Fiscal 2010						Fiscal 2011				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 6101 - Fixed Cost Workers Comp Management Program Allocat										
01	0.00	0	68,507	0	68,507	0.00	0	59,399	0	59,399
Total	0.00	\$0	\$68,507	\$0	\$68,507	0.00	\$0	\$59,399	\$0	\$59,399

DP 6101 - Fixed Cost Workers Comp Management Program Allocat - The Workers' Compensation Management program at the Department of Administration was funded by the 2009 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes funding via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as a one time only for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	974.32	974.32	974.32	974.32	974.32	974.32	0.00	0.00%
Personal Services	63,449,027	67,682,098	66,559,644	66,780,077	131,131,125	133,339,721	2,208,596	1.68%
Operating Expenses	274,800,392	289,188,043	281,263,206	290,250,578	563,988,435	571,513,784	7,525,349	1.33%
Equipment & Intangible Assets	1,015,008	1,040,260	1,015,008	1,015,008	2,055,268	2,030,016	(25,252)	(1.23%)
Capital Outlay	15,822,618	12,765,865	15,822,618	15,822,618	28,588,483	31,645,236	3,056,753	10.69%
Grants	1,187,648	372,010	1,187,648	1,187,648	1,559,658	2,375,296	815,638	52.30%
Total Costs	\$356,274,693	\$371,048,276	\$365,848,124	\$375,055,929	\$727,322,969	\$740,904,053	\$13,581,084	1.87%
State Special	81,389,398	93,623,783	77,158,163	77,959,512	175,013,181	155,117,675	(19,895,506)	(11.37%)
Federal Special	274,885,295	277,424,493	288,689,961	297,096,417	552,309,788	585,786,378	33,476,590	6.06%
Total Funds	\$356,274,693	\$371,048,276	\$365,848,124	\$375,055,929	\$727,322,969	\$740,904,053	\$13,581,084	1.87%

Program Description

The Construction Program is responsible for construction project planning and development from the time a project is included in the long-range work plan through the actual construction of the project. Program responsibilities include such tasks as project designs, accessing environmental issues, writing documents, obtaining permits, right-of-way acquisitions, issuing contract bids, awarding contracts, and administering construction contracts. Contract administration is responsible for the documentation, inspection, and testing of highway construction projects from the time the contract is awarded to a private contractor until the project is completed and the work is approved. The program also provides traffic improvement and educational programs to promote public safety, health, and welfare.

Program Highlights

Construction Program Major Budget Highlights	
♦	The division HB 2 budget would grow by \$13.6 million, or 1.9 percent, from the 2009 biennium to the 2011 biennium <ul style="list-style-type: none"> Contractor payments for the federal-aid construction program account for the largest increase and are at the federal FY 2008 funding levels and corresponding 2007 tentative construction plan The state funded construction program is moved from this program to the Maintenance Program for a \$7.7 million state special revenue reduction \$1.1 million state special revenue reductions are due to base funding that will not be needed this biennium
Major LFD Issues	
♦	The tentative construction plan is being updated for federal FY 2009 funding and will change the budget request just prior to the 2009 Legislature

Program Narrative

2009 Biennium Major Goals Monitored

No goals specific to this program were monitored during the 2009 biennium.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

- To survey, design, acquire the right-of-way, and construct safe, cost effective highway improvement projects in order to develop and maintain a cost effective, efficient, and safe transportation system
 - 85 percent of projects planned for the fiscal year are ready for contract
 - Maintain statewide average construction engineering costs under 10 percent of total contract costs
 - Maintain statewide final costs under 7 percent above award amount

LFD ISSUE

Objectives Do Not Address Outcomes

Although the objectives provided provide measures to monitor outputs involved in the process of delivering construction projects, the objectives provided would be of little use to the legislature in establishing appropriations policies and monitoring the effectiveness of the program in achieving the goal. The measures in these objectives could be used to evaluate how efficient the program is in performing its design work, but can not be used to measure how effective these activities are in achieving the intended outcomes. Doing something well doesn't necessarily translate to achieving the intended outcome, which in this case is to maintain a cost effective, efficient, and safe transportation system.

The legislature may want to discuss with the department ways it could strengthen the objectives to measure outcomes that would be observable by the traveling public, such as improvements in the condition and safety of Montana's highways.

Estimating Contractor Payment Amounts

Several present law adjustments for the Construction Program are based on existing construction contracts and future planned construction activity, construction contract bid letting dates, and estimates of staff resource needs to support the planned construction contracts during the 2011 biennium.

Based on planned construction activities, the department uses several management systems to estimate resource usage and payout schedules on highway construction projects. Each year after receiving updated federal-aid highway construction apportionment levels from the Federal Highways Administration, the department updates and balances the projects and funding in the highway construction plan, referred to as the tentative construction plan (TCP). The TCP indicates when the various highway construction projects will be let and the type of work to be completed. This construction contract information is used in the Project Cost Scheduling (PCS) system, one of many computerized management systems of the department, to estimate when and at what amounts actual contractor payments will be made. The estimates from these management systems form the basis for the contractor payments budget requests in both the federal-aid and 100 percent state funded construction programs. The management system estimates also form the basis for determining staff resources needed to support the planned construction contracts and activities for the biennium.

The last updated and balanced TCP was prepared at the end of 2007 and was used to develop the budget requests that are presented in the Legislative Budget Analysis 2011 Biennium. At the time of the budget analysis, the department was in the process, but had not completed, the 2008 update to the TCP for updated federal FY 2009 apportionment estimates.

**LFD
ISSUE****Update to the Highway Construction Plan**

The budget request DP 210 in the Construction Program, which requests funding for contractor payments in the federal-aid, was built based on the 2007 TCP update. In keeping with past practice, this decision package will likely be revised and resubmitted by the executive prior to being heard by the Natural Resources and Transportation Joint Appropriation Subcommittee of the 2009 Legislature. The revised request will be based on the 2008 TCP update.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Construction Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 81,389,398	22.8%	\$ 77,158,163	21.1%	\$ 77,959,512	20.8%
02422 Highways Special Revenue	81,389,398	22.8%	77,158,163	21.1%	77,959,512	20.8%
02799 Highway 93 Bond Proceeds	-	-	-	-	-	-
03000 Total Federal Special Funds	274,885,295	77.2%	288,689,961	78.9%	297,096,417	79.2%
03407 Highway Trust - Sp Rev	269,779,399	75.7%	288,689,961	78.9%	297,096,417	79.2%
03828 Traffic Safety	5,105,896	1.4%	-	-	-	-
Grand Total	\$ 356,274,693	100.0%	\$ 365,848,124	100.0%	\$ 375,055,929	100.0%

Costs eligible for reimbursement under the federal-aid construction program are funded with highways state special revenue funds and federal special revenue funds apportioned to Montana and distributed by the U.S. Department of Transportation. Construction design, construction, and construction management costs, as well as direct administrative costs for construction activities, are generally eligible for federal reimbursement. The state match requirement is based on a sliding scale match, which is currently 87 percent federal with a 13 percent state match for most direct construction related costs. The program also provides a maintenance-of-effort highway construction program funded entirely with highways state special revenue. The primary sources of revenue for the highways state special revenue funds are highway-user fees derived from motor fuel taxes and gross vehicle weight fees. Traffic safety functions are generally funded 100 percent with National Highway Traffic Safety Administration grant funds. The exception is that a 50 percent state special revenue match is required for roughly 1 percent of the administrative costs.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	356,274,693	356,274,693	712,549,386	96.17%
Statewide PL Adjustments	0	0	0	0.00%	344,336	573,369	917,705	0.12%
Other PL Adjustments	0	0	0	0.00%	9,229,095	18,207,867	27,436,962	3.70%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$365,848,124	\$375,055,929	\$740,904,053	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010						Fiscal 2011				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				2,933,360					3,163,012	
Vacancy Savings				(2,655,268)					(2,664,487)	
Inflation/Deflation				51,968					60,135	
Fixed Costs				14,276					14,709	
Total Statewide Present Law Adjustments				\$344,336					\$573,369	
DP 210 - Contractor Payments/Federal Aid	0.00	0	1,352,846	9,085,782	10,438,628	0.00	0	2,532,206	17,006,422	19,538,628
DP 211 - Contractor Payments/State Funded Construction	0.00	0	(3,826,896)	0	(3,826,896)	0.00	0	(3,826,896)	0	(3,826,896)
DP 214 - Equipment Rental	0.00	0	219,042	211,720	430,762	0.00	0	157,398	152,136	309,534
DP 215 - OT/Differential	0.00	0	1,471,780	1,360,745	2,832,525	0.00	0	1,471,780	1,360,745	2,832,525
DP 216 - Training Reduction	0.00	0	(119,924)	0	(119,924)	0.00	0	(119,924)	0	(119,924)
DP 222 - Westlaw Internet License	0.00	0	10,000	0	10,000	0.00	0	10,000	0	10,000
DP 223 - Program Reductions	0.00	0	(536,000)	0	(536,000)	0.00	0	(536,000)	0	(536,000)
Total Other Present Law Adjustments										
	0.00	\$0	(\$1,429,152)	\$10,658,247	\$9,229,095	0.00	\$0	(\$311,436)	\$18,519,303	\$18,207,867
Grand Total All Present Law Adjustments				\$9,573,431					\$18,781,236	

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

o Market Rate

- The Construction Program follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified
- The statewide personal services adjustment represents salaries for the division at an estimated 96 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 109 percent of market relative to the 2006 executive branch market survey

o Vacancy

- The division has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention

o Legislatively Applied Vacancy Savings

- The division used natural turnover and held vacant positions open as needed to achieve the 4.0 percent legislatively applied vacancy savings rate

LFD COMMENT

In terms of FTE-hours, the division experienced a 4.9 percent vacancy rate, with hours expended exceeding calculated hours available from authorized FTE. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division under spent its personal services authority appropriated by the 2007 Legislature by 7.2 percent.

- Pay Changes

- Pay increases given to division staff were primarily for career ladder increases, and the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature. The 0.6 percent was given to selected individuals to achieve the agency internal equity policy or who were below the target market ratio for their position. Pay increases for discretionary market adjustments were given to move employees in line with the agency target market ratio and were funded using the 0.6 percent flexible component of HB 13. Pay increases for career ladder increases were outside HB 13 and were funded with savings from vacancies

**LFD
COMMENT**

Career ladder increases were given to positions covered under the division's career ladder progression plan. The division has 302 positions or 504.43 FTE in career ladder positions. Of these, 24 or 8 percent received career ladder increases in FY 2008.

Career ladder positions are in the following job groups:

- Civil engineer specialist
- Civil engineering technician
- Engineering contract specialist
- Materials lab inspector
- Materials inspection aide
- Materials inspection technician
- Designer
- Design technician
- Right-of-way specialist
- Right-of-way technician

- Retirements

- The division anticipates 146 employees would be eligible for full retirement (30 years of state service or 60 years of age) in the 2011 biennium. The department was unable to determine what the unfunded compensated absence liability cost would be if these employees retired in the 2011 biennium

DP 210 - Contractor Payments/Federal Aid - An increase of nearly \$30.0 million combined state special and federal special revenue for the biennium is requested to fund payments to highway construction contractors based on department estimates of federal-aid funding and the corresponding highway construction plan last updated at the end of 2007. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**

This adjustment may change before the legislature hears the department budget request because of timing of the update to the Tentative Construction Plan. For further discussion of construction planning see the narrative and LFD issue titled, Update to the Highway Construction Plan in the Program Narrative section for this program.

DP 211 - Contractor Payments/State Funded Construction - A reduction of nearly \$7.7 million state special revenue for the biennium is proposed to transfer the state funded construction program to the Maintenance Division. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**

This request would remove all base funding for the state funded construction program for this program. DP 318 - State Funded Construction - Program Transfer in the Maintenance Program increases the funding in that program by this amount and additional \$12.3 million to increase the state funded construction program to \$10 million per year.

DP 214 - Equipment Rental - An increase of \$740,000 combined state special and federal special revenue for the biennium is requested to fund the program share of proposed increases in the Equipment Program - an internal service program exclusively serving programs of the Department of Transportation. A discussion of the equipment rental rates is contained in the proprietary discussion for the Equipment Program. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 215 - OT/Differential - An increase of nearly \$5.7 million combined state special and federal special revenue for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$738,200 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 216 - Training Reduction - A reduction of nearly \$240,000 state special revenue for the biennium is proposed to reduce funding for training. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 222 - Westlaw Internet License - An increase of \$20,000 state special revenue for the biennium is requested to purchase the license to access the Westlaw Internet site for legal research. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 223 - Program Reductions - A reductions of nearly \$1.1 million state special revenue for the biennium is proposed to reduce state special revenue because the base includes costs for the following purposes that will not occur in the 2011 biennium:

- Site Manager program
- City-wide traffic signal upgrades

State special revenue funding is entirely from the restricted highways state special revenue account.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	766.67	766.67	766.67	766.67	766.67	766.67	0.00	0.00%
Personal Services	43,652,415	49,498,900	47,892,652	48,111,843	93,151,315	96,004,495	2,853,180	3.06%
Operating Expenses	57,945,127	66,827,926	73,422,207	72,948,052	124,773,053	146,370,259	21,597,206	17.31%
Equipment & Intangible Assets	795,278	250,068	1,773,813	827,278	1,045,346	2,601,091	1,555,745	148.83%
Capital Outlay	157,150	105,064	157,150	157,150	262,214	314,300	52,086	19.86%
Total Costs	\$102,549,970	\$116,681,958	\$123,245,822	\$122,044,323	\$219,231,928	\$245,290,145	\$26,058,217	11.89%
State Special	96,436,870	108,109,398	115,311,283	114,869,028	204,546,268	230,180,311	25,634,043	12.53%
Federal Special	6,113,100	8,572,560	7,934,539	7,175,295	14,685,660	15,109,834	424,174	2.89%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$102,549,970	\$116,681,958	\$123,245,822	\$122,044,323	\$219,231,928	\$245,290,145	\$26,058,217	11.89%

Program Description

The Maintenance Program is responsible for the repair, maintenance and preservation of approximately 25,000 lane miles of roadways. Activities include but are not limited to: winter maintenance, reactive and preventive pavement preservation, pavement marking, signing, roadway striping, noxious weed control, traveler information, and other necessary roadway and roadside repairs and maintenance.

Program Highlights

Maintenance Program Major Budget Highlights	
♦	<p>The division HB 2 budget would grow by \$26.1 million, or 11.9 percent, from the 2009 biennium to the 2011 biennium</p> <ul style="list-style-type: none"> • The state funded construction program is moved to this program from the Maintenance Program and is increased by \$12.3 million over the biennium to \$10 million per year • Increasing the pavement marking program to typical annual levels would add \$3.8 million • Cost increases for liquid deicer solution would add \$1.2 million • Five variable message signs would add \$947,000 to advise the traveling public of winter road and construction conditions at two Interstate locations

Program Narrative

2009 Biennium Major Goals Monitored

No goals specific to this program were monitored during the 2009 biennium

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The LFD recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the

interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

- Maintain safe winter driving conditions through snow removal and application of abrasive materials and anti-icing chemicals to reduce roadway hazards and slippery surface conditions
 - Ensure the Interstate system has bare pavement within 24 hours of a typical winter storm event
- 85 percent of roads under department jurisdiction will meet reflective standard for striping by July 1 annually

LFD COMMENT

The key goals identified for the program represent significant policy areas for the department in their contribution to promoting a safe highway system for the traveling public. Both goals either are or have objectives that are measurable, specific, and time bound. Both goals are funded with both base funding and include requests for adjustments in the executive budget. The winter driving goal is supported by present law DP 307 - US 93 Ravalli-Ronan Changes and DP 312 - Winter Maintenance - Increased Cost of Chemical. The striping goal is supported by present law DP 314 - Pavement Marking Program.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Maintenance Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 96,436,870	94.0%	\$ 115,311,283	93.6%	\$ 114,869,028	94.1%
02422 Highways Special Revenue	96,436,870	94.0%	115,311,283	93.6%	114,869,028	94.1%
03000 Total Federal Special Funds	6,113,100	6.0%	7,934,539	6.4%	7,175,295	5.9%
03407 Highway Trust - Sp Rev	6,113,100	6.0%	7,934,539	6.4%	7,175,295	5.9%
06000 Total Proprietary Funds	-	-	-	-	-	-
06508 Highway Equipment - Int Svc.	-	-	-	-	-	-
Grand Total	\$ 102,549,970	100.0%	\$ 123,245,822	100.0%	\$ 122,044,323	100.0%

The Maintenance Program is primarily funded with the state special revenue. All state special revenue is from the constitutionally restricted highways state special revenue account. Federal special revenue also funds qualifying highway maintenance activities determined by the Federal Highway Administration to extend the life of the highway.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
	-----General Fund-----				-----Total Funds-----			
Budget Item	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	102,549,970	102,549,970	205,099,940	83.62%
Statewide PL Adjustments	0	0	0	0.00%	1,877,399	2,121,992	3,999,391	1.63%
Other PL Adjustments	0	0	0	0.00%	18,818,453	17,372,361	36,190,814	14.75%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$123,245,822	\$122,044,323	\$245,290,145	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----					-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					3,538,448					3,766,801
Vacancy Savings					(1,887,650)					(1,896,812)
Inflation/Deflation					226,601					252,003
Total Statewide Present Law Adjustments					\$1,877,399	\$2,121,992				
DP 301 - OT/Differential	0.00	0	2,589,439	0	2,589,439	0.00	0	2,589,439	0	2,589,439
DP 302 - Equipment Rental	0.00	0	2,095,978	0	2,095,978	0.00	0	1,580,227	0	1,580,227
DP 303 - Training Reduction	0.00	0	(30,628)	0	(30,628)	0.00	0	(30,628)	0	(30,628)
DP 306 - Variable Message Signs	0.00	0	189,307	757,228	946,535	0.00	0	0	0	0
DP 307 - US 93 Ravalli-Ronan Changes	0.00	0	167,221	0	167,221	0.00	0	167,889	0	167,889
DP 308 - Rest Areas - Maintenance & Supplies	0.00	0	153,075	0	153,075	0.00	0	168,061	0	168,061
DP 310 - City Contract Increases	0.00	0	113,018	0	113,018	0.00	0	113,558	0	113,558
DP 311 - Mobile & Portable Handheld Radios	0.00	0	97,663	0	97,663	0.00	0	97,663	0	97,663
DP 312 - Winter Maintenance - Increased Cost of Chemical	0.00	0	78,000	522,000	600,000	0.00	0	78,000	522,000	600,000
DP 314 - Pavement Marking Program	0.00	0	246,232	1,647,859	1,894,091	0.00	0	246,232	1,647,859	1,894,091
DP 316 - Noxious Weed Program	0.00	0	192,061	0	192,061	0.00	0	192,061	0	192,061
DP 318 - State Funded Construction - Program Transfer	0.00	0	10,000,000	0	10,000,000	0.00	0	10,000,000	0	10,000,000
Total Other Present Law Adjustments										
	0.00	\$0	\$15,891,366	\$2,927,087	\$18,818,453	0.00	\$0	\$15,202,502	\$2,169,859	\$17,372,361
Grand Total All Present Law Adjustments					\$20,695,852	\$19,494,353				

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

○ Market Rate

- The Maintenance Program follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified
- The statewide personal services adjustment represents salaries for the division at an estimated 96 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 111 percent of market relative to the 2006 executive branch market survey

○ Vacancy

- The division has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention. However, it stated that factors that impact vacancies for blue collar positions in the division are largely geographic due to many remote or high cost areas of the state covered by the division. The division used the flexible 0.6 percent portion of HB 13 to increase blue collar salaries

○ Legislatively Applied Vacancy Savings

- The division used natural vacancies to achieve the 4.0 percent legislatively applied vacancy savings rate

**LFD
COMMENT**

In terms of FTE-hours, the division experienced an 8.0 percent vacancy rate. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division under spent its personal services authority appropriated by the 2007 Legislature by 8.0 percent.

- Pay Changes

- Pay increases given to division staff were limited primarily to career ladder and blue collar increases and the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature. The 3.6 percent increases of HB 13 were given uniformly to blue collar workers as a condition of their negotiated contract. Pay increases for career ladder increases were outside HB 13 and were funded with savings from vacancies

**LFD
COMMENT**

Career ladder increases were given to blue collar workers in maintenance technician positions under the division's career ladder progression plan. The division has 426 positions or 483.63 FTE in career ladder positions. Of these 51 or 10.5 percent received career ladder increases in FY 2008.

- Retirements

- The division anticipates 95 employees would be eligible for full retirement (30 years of state service or 60 years of age) in the 2011 biennium. The agency was unable to determine the 2011 biennium unfunded compensated absence liability cost if these employees retired

DP 301 - OT/Differential - An increase of nearly \$5.2 million state special revenue for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$675,500 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 302 - Equipment Rental - An increase of \$3.7 million state special revenue for the biennium is requested to fund the program share of proposed increases in the Equipment Program - an internal service program exclusively serving programs of the Department of Transportation. A discussion of the equipment rental rates is contained in the proprietary discussion for the Equipment Program. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 303 - Training Reduction - A reduction of nearly \$61,300 state special revenue for the biennium is proposed to reduce funding for training. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 306 - Variable Message Signs - An increase of \$947,000 combined state special and federal special revenue for the biennium is requested. This request would add five variable message signs (VMS) and four support structures to address traveler notification needs at Lookout Pass and Rocker. Variable Message Signs would be used to alert travelers about various road and weather conditions such as construction work, winter maintenance alerts, road closures and detours. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 307 - US 93 Ravalli-Ronan Changes - An increase of \$335,000 state special revenue for the biennium is requested to fund utility and maintenance costs for 371 new luminaries and seven traffic signals added in the Ravalli-Ronan area during new construction on Highway 93. Funding would also buy additional deicer solution to address additional needs in the area. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 308 - Rest Areas - Maintenance & Supplies - An increase of \$321,000 state special revenue for the biennium is requested to address increased costs related to the maintenance of several rest areas. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**
Factors for Cost Increases

According to the agency, the costs associated with the multiple rest areas are as follows:

- Dena Mora rest area (\$33,300) is for caretaker per diem increases and cost related to increased maintenance levels associated with harsh climate, remote location, and additional weather maintenance due to the high snowfalls
- Emigrant and Reynolds Pass rest area (\$12,108) are both due to be rebid and expectations are that costs will increase by 10 percent
- Anaconda rest area (\$174,836) was opened late in FY 2008, so the base amount does not reflect full year costs
- Gold Creek rest area and rest stop (\$32,000) will be converted to a truck parking area and two restroom vaults in each direction will be added

Various other rest areas (\$68,892) have increased costs of caretaker and janitorial services due to contractual cost increases and expected increases when some of these rest areas are rebid.

DP 310 - City Contract Increases - An increase of \$227,000 state special revenue for the biennium is requested to address cost increases for maintenance contracts in which cities perform routine maintenance on state roadways that are within city limits. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**
Maintenance Contracts

The department has maintenance service contracts with Missoula and Billings to maintain state highways that are the financial responsibility of the state and run through those cities. Contracts with these two cities call for a 2.3 percent inflation adjustment. The contracted duties are similar to activities performed by the department, such as snow removal and ice control, roadway patching and repairs, storm drain maintenance and repairs, landscape maintenance, street cleaning, review and initiation of encroachment permits, interchange and park green area maintenance, weed and tree control, and cross walk and roadway painting. The request also includes \$23,615 for increased costs for signal and sign maintenance in Great Falls and Helena.

DP 311 - Mobile & Portable Handheld Radios - An increase of \$195,000 state special revenue for the biennium is requested to purchase 25 mobile radios and 25 handheld radios for use with the Interoperable Montana Radio System. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 312 - Winter Maintenance - Increased Cost of Chemical - An increase of \$1.2 million combined state special and federal special revenue for the biennium is requested to address increased costs of chemical deicer. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 314 - Pavement Marking Program - An increase of \$3.8 million combined state special and federal special revenue for the biennium is requested to adjust funding for the pavement marking program to annual planned levels. Due to weather impacts, projects planned for the base were delayed so the base does not reflect a full plan year of pavement marking program expenditures. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 316 - Noxious Weed Program - An increase of \$384,000 state special revenue for the biennium is requested to adjust funding for the noxious weed program to annual planned levels. Due to weather impacts, herbicide applications were not

made as planned so the base does not reflect a full plan year of noxious weed program expenditures. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 318 - State Funded Construction - Program Transfer - An increase of \$20.0 million state special revenue for the biennium is requested to move the state funded construction program from the Construction Program to the Maintenance Program and increase it by \$12.3 million over the biennium to a \$10.0 million annual funding level. Average maintenance of effort to maintain a favorable federal participation rate of 87 percent for the federal-aid construction program is \$10.0 million of fully state funded construction for Montana. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT****Partial Offsetting Reduction in the Construction Program**

This request is related to a reduction in the Construction Program in decision package DP 0211 – Contractor Payments/State Funded Construction that reduces the budget for that program to eliminate base expenditures for the state funded construction program.

Proprietary Program Description

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year.

State Motor Pool Internal Service - Proposed Budget Table					
Account Name	Actual Base	FY 2010	FY 2010	FY 2011	FY 2011
		Adjustments		Adjustments	
		ts	Total	ts	Total
FTE	6.00	0.00	6.00	0.00	6.00
61000 Personal Services	\$335,108	\$8,901	\$344,009	\$11,132	\$346,240
62000 Operating Expenses	2,852,819	410,063	3,262,882	534,589	3,387,408
63000 Equipment & Intangible Assets	2,333,918	485,751	2,819,669	565,751	2,899,669
67000 Benefits & Claims	0	0	0	0	0
69000 Debt Service	388,388	13,352	401,740	13,352	401,740
Total Costs	<u>\$5,910,233</u>	<u>\$918,067</u>	<u>\$6,828,300</u>	<u>\$1,124,824</u>	<u>\$7,035,057</u>

Program Description

The State Motor Pool operates and maintains a fleet of vehicles available to all state offices and employees who conduct official state business. The State Motor Pool has two basic components: 1) the daily rental fleet; and 2) the out-stationed lease fleet. The daily rental program operates out of the Helena headquarters facility and provides vehicles for short-term use. The leasing program provides vehicles for extended assignment (biennial lease) to agencies statewide.

Program Highlights

State Motor Pool Major Budget Highlights	
♦	Rate increases would result in fixed cost increases of 19.1 percent in FY 2010 and 20.8 percent in FY 2011 for motor pool cost items in budgets of State Motor Pool user agencies
♦	Speculation of high petroleum prices are key contributor to growth in rates

Funding

State Motor Pool is funded entirely with internal service type proprietary funds. Because the proprietary funds do not require an appropriation, they are not typically included in HB 2 tables. Instead, the legislature approves the fees and charges that support the revenues for the program. The fees and charges approved in the general appropriations act are the maximum fees and charges that may be charged in the biennium. The proprietary funded program is discussed below in the Proprietary Rates section.

The following table shows estimated funding sources for payments made by users of the State Motor Pool for the base and the 2011 biennium.

Estimated Funding for Payments to the State Motor Pool (\$ Millions)			
		FY 2010	FY 2011
Item	Base	est.	est.
General Fund	\$2.37	\$3.36	\$3.45
State Special Revenue	2.10	2.98	3.06
Federal Special Revenue	1.08	1.82	1.87
Proprietary	0.07	0.10	0.10
Other	<u>0.08</u>	<u>0.11</u>	<u>0.11</u>
Total Payments	<u>\$5.70</u>	<u>\$8.37</u>	<u>\$8.59</u>

Program Narrative

Expenses

Base year program costs were driven by the following cost areas:

- o Supplies (\$2,071,327), made up mostly by gasoline purchases
- o Equipment purchases (\$2,333,918), for the purchase of new and replacement vehicles for the fleet
- o Personal services (\$337,428) supported costs for 6.00 FTE
- o Depreciation (\$2,518,224), which is a non-cash expense that reduces the value of an asset as a result of wear and tear, age, or obsolescence
- o Repair and maintenance costs (\$295,873), which were dominated by tires and tubes, equipment repair parts, maintenance service contracts for remote areas outside of Helena, oil and oil filters, grease and lubricants

Many of the costs that dominate program expenditures are strongly influenced by petroleum costs and when petroleum costs are rising, as they have for the past several years, result in increased costs for the program to meet customer service levels.

Revenues

Revenues of the program are derived from fees charged to all state agencies that use the program. Fees are charged for both possession and use of equipment using a dual rate structure that collects fixed costs under a possession charge and variable costs under a usage charge. Fixed costs are for expense items such as insurance, depreciation, and indirect costs.

The figure for fund 06506 shows the financial information for the fund from FY 2008 through FY 2011. The LFD edited and reconfigured the figure for clarity.

2011 Biennium Report on Internal Service and Enterprise Funds

Fund	Fund Name	Agency #	Agency Name	Program Name
06506	Motor Pool Internal	54010	Transportation	State Motor Pool

	Actual FY08	Budgeted FY09	Projected FY10	Projected FY11
Operating Expenses:				
Personal Services	337,428	344,691	344,009	346,240
Other Operating Expenses	<u>5,666,694</u>	<u>5,214,712</u>	<u>6,624,740</u>	<u>6,829,131</u>
Total Operating Expenses	\$6,004,122	\$5,559,403	\$6,968,749	\$7,175,371
Operating Revenues:				
Revenue From Fees	5,903,943	6,225,206	8,384,829	8,591,451
Investment Earnings	0	0	0	0
Securities Lending Income	0	0	0	0
Other Operating Revenues	<u>1,683</u>	<u>50,000</u>	<u>20,000</u>	<u>20,000</u>
Total Operating Revenue	\$5,905,626	\$6,275,206	\$8,404,829	\$8,611,451
Operating Gain (Loss)	(98,496)	715,803	1,436,080	1,436,080
Nonoperating Sources (Uses) (Note 1)	(45,259)	30,000	0	0
Net Assets as of July 1 (Beginning of Fiscal Y	\$1,193,921	\$1,050,166	\$1,795,969	\$3,232,049
Net Increase (Decrease) of Net Assets	(143,755)	745,803	1,436,080	1,436,080
Prior Period Adjustments	0	0	0	0
Cumulative Effect of Account Change	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Assets as of June 30 (End of Fiscal Year)	<u>\$1,050,166</u>	<u>\$1,795,969</u>	<u>\$3,232,049</u>	<u>\$4,668,129</u>

Note 1 - Includes loss on sale of asset (\$68,559) and nonoperating revenue (\$23,300)

Operating gains shown for fiscal years 2010 and 2011 are planned into the operation of this program to fund repayment of general fund loans received in FY 2008 to finance gasoline purchases when gasoline prices were higher than the approved rates for the 2009 biennium would recover. The program has a \$3.3 million general fund loan that isn't reflected on the fund table.

Present Law

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

State Motor Pool - Present Law Adjustments		
DP Name	FY 2010	FY 2011
DP 0000 Statewide Adjustments	\$398,626	\$461,134
DP 0701 OT/Differential	1,141	1,141
DP 0705 Increased Repair & Maintenance Cos	17,769	17,769
DP 0706 EVMS Maintenance Contract Increas	1,227	1,227
DP 0707 Vehicle Purchases	<u>499,103</u>	<u>643,379</u>
Total Present Law Adjustments	<u>\$917,866</u>	<u>\$1,124,650</u>

DP 0701 - OT/Differential - An increase of \$2,300 proprietary funds for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$300 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. This increase would have no impact on the rates as it only requests continuation of actual base costs on zero based items of the budget.

DP 0705 - Increased Repair & Maintenance Costs - An increase of \$35,500 proprietary funds for the biennium is requested to address increased costs of motor oil and tires. The impact of this request is an estimated \$0.00113 per mile on the usage rates in each year of the biennium.

DP 0706 - EVMS Maintenance Contract Increase - An increase of \$2,454 proprietary funds for the biennium is requested to fund a 2.5 percent increase in the maintenance contract with Agile Assets for the Equipment and Vehicle Management System (EVMS). This request addresses half of the increases with the other half being funded in the Equipment Program. This request would have a negligible impact on the assigned time rates for the biennium.

DP 0707 - Vehicle Purchases - An increase of \$1.1 million proprietary funds for the biennium is requested to address costs to purchase new and replacement vehicles for the fleet and has three components:

- An increase in the quantity of vehicles purchased
- An increase in the cost per vehicle
- Fuel to operate the additional vehicles (\$64,300 in FY 2011)

This request would have the following estimated impacts on the rates for the 2011 biennium:

- o \$0.0046 per hour increase in the assigned rates in each year of the biennium
- o \$0.0041 per mile increase on the mileage usage rate in FY 2011

New Proposals

State Motor Pool Internal Services Program - New Proposals		
DP Name	FY 2010 FY 2011	
DP 0704 Fixed Cost Workers Comp Mgmt Program Allocat	\$201	\$174

DP 0704 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2009 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, executive proposes funding via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as a one time only for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process. This request would have a negligible impact on the assigned time rates for the biennium.

Proprietary Rates

For the 2011 biennium the following rates would generate revenue commensurate with the costs as presented in the executive budget proposal.

State Motor Pool - Rates

		Actual FY 2008	Actual FY 2008	Actual FY 2009	Actual FY 2009	Budgeted FY 2010	Budgeted FY 2010	Budgeted FY 2011	Budgeted FY 2011
Rental Rate Fees		Assigned Rate	Usage Rate	Assigned Rate	Usage Rate	Assigned Rate	Usage Rate	Assigned Rate	Usage Rate
Class 02	Small Utilities	1.547	0.158	1.637	0.160	2.543	0.229	2.428	0.234
Class 03	Hybrid SUV	1.948	0.200	2.038	0.202	1.690	0.167	2.323	0.167
Class 04	Large Utilities	1.948	0.200	2.038	0.202	2.347	0.276	2.359	0.284
Class 05	Hybrid Sedan	1.393	0.123	1.408	0.125	2.355	0.120	2.610	0.124
Class 06	Passenger Car	1.393	0.123	1.408	0.125	1.733	0.172	1.749	0.178
Class 07	Small Pickup	1.528	0.187	1.581	0.190	1.667	0.257	1.678	0.265
Class 11	Large Pickup	1.432	0.215	1.437	0.218	1.797	0.271	1.831	0.279
Class 12	Vans	1.453	0.181	1.420	0.183	1.825	0.256	1.858	0.263

**LFD
COMMENT**

The following figure shows the change for the rate of each class of vehicle as compared to the FY 2008 rates.

State Motor Pool - Rate Growth Rates
(Compared for FY 2008 Rates)

		Budgeted FY 2010				Budgeted FY 2011			
		Assigned Rate		Usage Rate		Assigned Rate		Usage Rate	
Rental Rate Fees		Rate	Growth	Rate	Growth	Rate	Growth	Rate	Growth
Class 02	Small Utilities	\$2.543	64.3%	\$0.229	44.8%	\$2.428	56.9%	\$0.234	47.9%
Class 03	Hybrid SUV	1.690	-13.2%	0.167	-16.3%	2.323	19.3%	0.167	-16.3%
Class 04	Large Utilities	2.347	20.5%	0.276	38.3%	2.359	21.1%	0.284	42.3%
Class 05	Hybrid Sedan	2.355	69.1%	0.120	-2.5%	2.610	87.4%	0.124	0.7%
Class 06	Passenger Car	1.733	24.4%	0.172	39.7%	1.749	25.6%	0.178	44.6%
Class 07	Small Pickup	1.667	9.1%	0.257	37.7%	1.678	9.8%	0.265	42.0%
Class 11	Large Pickup	1.797	25.5%	0.271	26.2%	1.831	27.9%	0.279	29.9%
Class 12	Vans	1.825	25.6%	0.256	41.8%	1.858	27.9%	0.263	45.7%

The rate change information is provided for each budget adjustment except for the statewide present law adjustments. The most significant increase contained in the statewide present law adjustment is inflation costs for gasoline, which would increase costs by \$407,000 in FY 2010 and \$467,000 in FY 2011. These costs increases would impact the per mile usage rates and in comparison to DP 0705 - Increased Repair & Maintenance Costs, which increase the usage rates by roughly \$0.00113 per \$17,769 increase, would have estimated \$0.026 in FY 2010 and \$0.03 in FY 2011 rate impacts. The remaining rate increases are due to programmed annual operating gains.

The rates presented for approval are based on the assumption that the pump price for gasoline will average \$4.30 in FY 2010 and \$4.40 in FY 2011. The gasoline price only impacts the usage rates charged by the program. The assumed prices for gasoline are typical of the peak prices approached during 2008. The price of gasoline price has since dropped significantly from the high levels seen in the summer of 2008. Since the rates approved by the legislature are the maximum the program can charge to its users and since there is great deal of uncertainty in the global economy, approving a rate based on a gasoline price that has recently been approached allows the agency the flexibility to charge lower rates and respond if gasoline prices rise.

**LFD
COMMENT
(cont.)**

In the past, the legislature has approved rates based on assumed gasoline prices that were far below the prices seen when the rates were charged. The agency continued to operate by obtaining a general fund loan to purchase gasoline and this loan is now being repaid through a portion of the assigned time rates being requested. The assigned time rates, depending upon the vehicle class, include \$0.455 to \$0.559 per hour rate components to repay the loan. The loan is being repaid over five years and the first payment was in FY 2008.

**LFD
ISSUE****Disconnect Between Motor Pool Rates and Agency Funding to Pay for the Service**

In aggregate, the rates proposed for the State Motor Pool increase, compared to the base rates, by 29.32 percent in FY 2010 and by 32.08 percent in FY 2011. As stated, these requested State Motor Pool rates are based on gasoline pump prices of \$4.30 per gallon in FY 2010 and \$4.40 per gallon in FY 2011. However, the base funding for user programs to pay these increased fees have only been increased by 19.1 percent for FY 2010 and 20.8 percent for FY 2011. The lower user agency funding is based on State Motor Pool rates determined for gasoline pump prices of \$3.21 per gallon in each fiscal year. Agency funding to pay for State Motor Pool increases is increased by the inflation adjustments included in their statewide present law adjustments.

If the legislature wishes to continue past practices of maintaining a linkage between proprietary fund rates and budgets of the agencies that use the services of the proprietary program it may wish to:

- Adjust the rates for the State Motor Pool down to the rates determined for gasoline pump prices of \$3.21 per gallon
- Adjust budgets for user agencies to match the requested rates for the State Motor Pool

The figure on page P-158 of the executive budget for the State Motor Pool fund indicates the executive has been contemplating tiered rates based on gasoline prices. However, this concept was not submitted as part of the executive budget. The legislature may want to consider this tiered rate approach. If it did approve tiered rates and wanted to maintain the linkage between rates and user agency budgets, it may want to consider making corresponding adjustments to agency budgets.

Proprietary Program Description

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year.

Equipment Program Internal Service - Proposed Budget Table					
Account Name	FY 2010		FY 2011		FY 2011 Total
	Actual Base	Adjustments	FY 2010 Total	Adjustments	
FTE	122.00	1.00	123.00	1.00	123.00
61000 Personal Services	\$7,269,300	\$367,510	\$7,636,810	\$404,815	\$7,674,115
62000 Operating Expenses	12,703,484	1,707,806	14,411,290	1,927,994	14,631,478
63000 Equipment & Intangible Assets	7,061,639	864,000	7,925,639	0	7,061,639
67000 Benefits & Claims	0	0	0	0	0
Total Costs	<u>\$27,034,423</u>	<u>\$2,939,316</u>	<u>\$29,973,739</u>	<u>\$2,332,809</u>	<u>\$29,367,232</u>

Program Description

The Equipment Program is responsible for the acquisition, disposal, repair and maintenance of a fleet of 4,555 individual units. The fleet is comprised of light duty vehicles, single and tandem axle dump trucks, specialized snow removal units, roadway maintenance units, and other specialized equipment. Exclusively, the Department of Transportation's various programs such as Construction, Motor Carrier Services, Maintenance, and Right-of-Way use the fleet. All units are assigned to the various user programs and are charged rental on a bi-weekly basis.

Program Highlights

Equipment Program Major Budget Highlights	
♦	Increases in the Equipment Program would result in \$4.5 million in increases to appropriated programs of the Department of Transportation <ul style="list-style-type: none"> Increases in costs for diesel fuel and gasoline account for most of the program cost increases and would add \$3.4 million over the biennium to costs of the program Statewide present law adjustments are also major factors for the growth and are primarily due to personal services
Major LFD Issues	
♦	60-day working capital rate is requested but the legislature has other alternatives to impart legislative policy via fiscal actions

Funding

The Equipment Program is funded entirely with internal service type proprietary funds. Because the proprietary funds do not require an appropriation, they are not typically included in HB 2 tables. Instead, the legislature approves the fees and charges that support the revenues for the program. The fees and charges approved in the general appropriations act are the maximum fees and charges that may be charged in the biennium. The proprietary funded program is discussed below in the Proprietary Rates section.

The following table shows estimated funding sources for payments made by users of the Equipment Program for the base and the 2011 biennium.

Estimated Funding for Payments to the Equipment Program			
Payment Funding	Base	FY 2010	FY 2011
01000 General Fund	\$2,988	\$0	\$0
02000 State/Other Special Rev. Funds	27,208,973	29,964,232	29,357,725
03000 Federal/Other Spec. Rev. Funds	<u>9,507</u>	<u>9,507</u>	<u>9,507</u>
Total Funding	<u>\$27,221,468</u>	<u>\$29,973,739</u>	<u>\$29,367,232</u>

Program Narrative

Expenses

Base year program costs were driven by the following cost areas:

- Supplies (\$8,472,688), which were dominated by costs for diesel fuel and gasoline
- Equipment purchases (\$7,061,639)
- Personal services (\$6,994,768) supported costs for 122.00 FTE
- Depreciation (\$5,866,067), which is a non-cash expense that reduces the value of an asset as a result of wear and tear, age, or obsolescence
- Repair and maintenance costs (\$3,282,544), which were dominated by equipment repair parts, cutting edges and scarifierteeth, tires and tubes, oil and oil filters, grease and lubricants

Many of the costs that dominate program expenditures are strongly influenced by petroleum costs and when petroleum costs are rising, as they have for the past several years, result in increased costs for the program to meet customer service levels.

Revenues

Revenues of the program are derived from fees charged exclusively to other programs of the Department of Transportation. Fees are charged for both possession and use of equipment using a dual rate structure that collects fixed cost under an assigned (time of possession) charge and variable costs under a usage charge. Fixed costs are for expense items such as insurance, depreciation, and indirect costs.

The figure for fund 06508 shows the financial information for the fund from FY 2008 through FY 2011. The LFD edited and reconfigured the figure to clarity.

2011 Biennium Report on Internal Service and Enterprise Funds						
Fund	Fund Name	Agency #	Agency Name		Program Name	
06508	Highway Equipment	54010	Transportation		Equipment Program	
			Actual FY08	Budgeted FY09	Projected FY10	Projected FY11
Operating Expenses:						
Personal Services			6,994,768	7,075,695	7,636,810	7,674,115
Other Operating Expenses			<u>18,859,666</u>	<u>18,605,248</u>	<u>22,339,953</u>	<u>21,696,474</u>
Total Operating Expenses			\$25,854,434	\$25,680,943	\$29,976,763	\$29,370,589
Operating Revenues:						
Revenue From Fees			27,433,927	26,543,533	28,237,427	28,507,999
Investment Earnings			0	0	0	0
Securities Lending Income			0	0	0	0
Other Operating Revenues			<u>159,843</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Operating Revenue			\$27,593,770	\$26,543,533	\$28,237,427	\$28,507,999
Operating Gain (Loss)			1,739,336	862,590	(1,739,336)	(862,590)
Nonoperating Sources (Uses) (Note 1)			1,351,888	0	0	0
Net Assets as of July 1 (Beginning of Fiscal Y			\$62,004,471	\$65,227,190	\$66,089,780	\$64,350,444
Net Increase (Decrease) of Net Assets			3,091,224	862,590	(1,739,336)	(862,590)
Prior Period Adjustments			131,495	0	0	0
Cumulative Effect of Account Change			<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Assets as of June 30 (End of Fiscal Year)			<u>\$65,227,190</u>	<u>\$66,089,780</u>	<u>\$64,350,444</u>	<u>\$63,487,854</u>
Note 1 - Includes gain on sale of asset (\$60,763), capital contribution (\$632,190), and transfer in (\$658,935)						

Present Law

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Equipment Program - Present Law Adjustments				
DP Name	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
DP 0000 Statewide Adjustments	0.00	\$1,771,578	0.00	\$2,028,027
DP 0801 OT/Differential	0.00	57,135	0.00	57,135
DP 0805 Equipment Purchases	0.00	864,000	0.00	0
DP 0806 FTE for St. Regis Shop	1.00	57,324	1.00	57,465
DP 0807 Equipment Repair & Maintenance	0.00	183,963	0.00	185,410
DP 0808 EVMS Maintenance Contract Increases	<u>0.00</u>	<u>1,227</u>	<u>0.00</u>	<u>1,227</u>
Total Present Law Adjustments	<u>1.00</u>	<u>\$2,935,227</u>	<u>1.00</u>	<u>\$2,329,264</u>

DP 0801 - OT/Differential - 801 - An increase of \$114,300 proprietary funds for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$14,900 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. This request increases the assigned rates by \$0.00603 per hour in each year of the biennium.

DP 0805 - Equipment Purchases – An increase of \$864,000 proprietary funds for the biennium is requested to purchase new equipment to be used throughout the equipment program. Equipment to be purchased would include:

- o Six tank trailers for use in the salt brining operation
- o A pug mill and stacker belt for mixing sand and salt for winter road maintenance
- o Used excavator for use in the Missoula district
- o Two tandem trucks, one each for Ravalli and Ronan, to meet maintenance needs on US 93 between Ravalli and Ronan

This request has no impact on the rates charged by the program.

DP - 0806 - FTE for St. Regis Shop – An increase of \$114,800 proprietary funds for the biennium is requested to fund the addition of 1.00 FTE to address workload issues for mechanic work in the St. Regis shop attributable to severe winter conditions on passes in the area. This request increases the assigned rates by \$0.006048 per hour in FY 2010 and \$0.006063 per hour in FY 2011.

DP - 0807 - Equipment Repair & Maintenance – An increase of \$369,400 proprietary funds for the biennium is requested to address increased costs of automotive parts and vehicle maintenance products. The increases are for:

- o Grease and lube, tires and repair parts (\$115,926)
- o Oil (\$98,185)
- o Tires (\$155,262)

This request increases the usage rates by \$0.008465 per mile in FY 2010 and \$0.008531 per mile in FY 2011.

DP 0808 - EVMS Maintenance Contract Increases – An increase of \$2,454 proprietary funds for the biennium is requested to fund a 2.5 percent increase in the maintenance contract with Agile Assets for the Equipment and Vehicle Management System (EVMS). This request addresses half of the increases with the other half being funded in the State Motor Pool Program. This request increases the assigned rate by \$0.000129 per hour in each year of the 2011 biennium.

New Proposals

Equipment Program Internal Services Program - New Proposals				
DP Name	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
DP 0804 Fixed Cost Workers Comp Mgmt Prog Allocat	0.00	\$4,089	0.00	\$3,545

DP 0804 - Fixed Cost Workers Comp Mgmt Prog Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2009 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, executive proposes funding via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as a one time only for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process. This request represents approximately 0.014 percent of the assigned rate.

Proprietary Rates

For the 2011 biennium the executive requests the legislature approve the following rates for the Equipment Program.

“The fee charges will not be done until the actual fiscal year the rates pertain to. These rates will be supported by the EVMS system, which was used in the past. The Equipment program may charge rates necessary to establish and maintain a 60 day working capital balance to operate the program.”

**LFD
ISSUE**

Fees Not Established - 60-day Working Capital is Not a Fee

Statutory Direction

Montana law states that the executive budget submission must contain a report for internal services funds that includes:

“Fees and charges in the internal service fund type, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.”

The above request specifically states that fee for FY 2010 and FY 2011 will not be established until FY 2010 and FY 2011, respectively. Furthermore the program requests that instead of approving non-existent fees, that the legislature provide the program the flexibility to operate as it determines necessary to maintain a 60-day working capital balance to operate the program. The request does not comply with the statutory direction for submission of fees and charges and it provides no fees and charges that the legislature can approve. Montana statute already provides the permissive authority for the program to operate up to a 60-day working capital level. As discussed below, working capital is not a fee the program can charge to its users, it is an accounting parameter.

When asked, the executive stated that the rates were not developed because the agency didn't know what the depreciation costs would be. Depreciation is determined according to accounting standards and agency accounting policies and practices. Depreciation calculations use equipment useful lives that are generally standardized by the type of equipment and agency accounting policy establishes the methodology for allocating the depreciation costs across the life of the equipment. The program has followed these standards and policies for years and should have little difficulty estimating in advance the depreciation costs for the equipment.

60 Days of Working Capital as a Rate

The program charges hundreds of specific rates for equipment used by the other divisions of the department. Montana statute states that the legislature, in the general appropriations act effective for the biennium, approves what would be the maximum level for the fees and charges of internal service fund type programs. Prior to HB 576 of the 1997 Legislature, internal service funds were funded via appropriations of the legislature, which capped the level of expenditures the programs could make during a biennium. HB 576 replaced the appropriation with a requirement for the legislature to approve the maximum level of fees and charges of the program. Maximum fees and charges combined with the statute requirement that fees and charges of internal service funded program must be commensurate with costs indirectly limit the expenditures of the program through its revenue mechanism and serves as a surrogate for an appropriation. Legislatively approved maximum levels for fees and charges also protect user agencies from the proprietary program increasing fees to fund expenditures that may not coincide with legislative policies or which were not anticipated by the legislature.

As stated, the Equipment Program charges specific fees for possession and usage of each type of equipment in its inventory, yet it continues to request that the legislature fulfill its statutory responsibility by approving 60-days of working capital as a rate for the program. The program goes on to state that the actual fees and charges will not be developed until the fiscal year to which they apply.

Working capital is an accounting parameter defined as the difference between current assets and current liabilities. Current assets are assets that are reasonably expected to be realized in cash, or sold, or consumed during the normal operating cycle of the business (usually one year). Current liabilities are liabilities to be paid within one year of the balance sheet date. Since working capital is the mathematical difference between current assets and current liabilities, it can change daily based on timing and levels of expense payments and revenue collections. A limit on the level of working capital does nothing to limit expenses, which through appropriations is how the legislature establishes policies for executive programs. Establishing the maximum level of fees a services providing program can charge its users that

**LFD
ISSUE (cont.)**

are commensurate with costs also protects user programs from excessive charges and through the budgeting process allows user agencies appropriations to pay for the services of the program.

Legislative Option for Addressing the Executive Request

Because the program has not proposed fees for the legislature to approve, the legislature may wish to first deliberate over changes in the program's anticipated expenditures as if the program were a HB 2 program. It could do this through the same process used for HB 2 programs by adopting a base and statewide present law adjustment and then determining consensus on decision packages. Once the expenditures are established for the 2011 biennium, it could request the program determine the fees that would correspond to the expenditure assumptions and present them to the legislature for approval.

Alternative Rate for Legislative Approval

An alternative approach the legislature could take is to adopt a limit on the amount of costs it could allocate to user programs. Instead of approving a 60-day working capital rate as proposed by the executive, the legislature could approve a maximum level of which the program could allocate costs to user programs. The report for the internal service fund estimates that revenues of \$28,237,427 for FY 2010 and \$28,507,999 for FY 2011 would fund operations for the 2011 biennium with operating losses of \$2.6 million for the biennium made up from depletion of net assets of the program. The legislature could approve these revenue limits as the maximum levels it could allocate its costs to users. Approving a maximum cost allocation rate would allow the legislature to more directly set policy through fiscal constraints.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	123.00	123.00	131.00	131.00	123.00	131.00	8.00	6.50%
Personal Services	6,118,243	6,534,617	7,763,558	7,801,543	12,652,860	15,565,101	2,912,241	23.02%
Operating Expenses	1,477,519	3,197,172	4,603,502	4,464,370	4,674,691	9,067,872	4,393,181	93.98%
Equipment & Intangible Assets	14,102	22,348	166,102	166,102	36,450	332,204	295,754	811.40%
Total Costs	\$7,609,864	\$9,754,137	\$12,533,162	\$12,432,015	\$17,364,001	\$24,965,177	\$7,601,176	43.78%
State Special	6,050,642	7,075,583	9,287,317	9,292,964	13,126,225	18,580,281	5,454,056	41.55%
Federal Special	1,559,222	2,678,554	3,245,845	3,139,051	4,237,776	6,384,896	2,147,120	50.67%
Total Funds	\$7,609,864	\$9,754,137	\$12,533,162	\$12,432,015	\$17,364,001	\$24,965,177	\$7,601,176	43.78%

Program Description

The Motor Carrier Services Division enforces state and federal commercial motor carrier laws including laws on vehicle size and weight, insurance, licensing, fuel, and vehicle and driver safety. The Licensing and Permit Bureau registers interstate fleet vehicles, issues commercial vehicle licenses and oversize/overweight permits, and collects and distributes fees and taxes. The Enforcement Bureau operates a statewide weigh station and mobile enforcement program and assigns uniformed officers to inspect commercial vehicles for compliance with state and federal safety, registration, fuel, insurance, and size/weight laws. The Motor Carrier Safety Assistance Program (MCSAP) conducts commercial motor carrier safety compliance reviews and safety audits.

Program Highlights

Motor Carrier Services Division Major Budget Highlights	
♦	<p>The division HB 2 budget would grow by \$7.6 million, or 43.8 percent, from the 2009 biennium to the 2011 biennium</p> <ul style="list-style-type: none"> • \$3.5 million federal special revenue funding would continue monitoring commercial vehicles for safety issues around Montana's northern border • \$2.1 million state special revenue funding from Unified Carrier Registration fees would fund the Motor Carrier Safety Assistance Program and Expanded Commercial Vehicle Information Systems and Networks projects • \$1.0 million state special revenue would realign the management structure for the enforcement functions from three regions to five regions • \$0.9 million combined state and federal special revenue would fund the addition of 8.00 FTE to increase coverage at I-90 weigh stations to provide 24 hour coverage seven days a week • \$492,000 state special revenue would fund operating costs at a joint port-of-entry at the Montana/Wyoming border
Major LFD Issues	
♦	<p>Funding for the Performance Registration Information System project should be designated as one time only</p>

- ◆ The legislature may want to monitor the interim performance of the enforcement function realignment to verify if efficiencies promised are realized
- ◆ A request related to an unfavorable exchange rate with the Canadian dollar may not be needed as the U.S. dollar has strengthened against the Canadian dollar

Program Narrative

2009 Biennium Major Goals Monitored

No goals specific to this program were monitored during the 2009 biennium

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The LFD recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

- Decrease the number of commercial vehicle related crashes and fatalities by reducing the number of safety non-compliant commercial vehicles and commercial drivers and motor carriers who operate on Montana roadways through effective vehicle, driver, and motor carrier compliance programs

LFD ISSUE

No Objectives Specified

This goal is central to the purpose for the division. However, the department failed to provide objectives for this goal. Measurable objectives framed in the confines of the budget request and that measure the effectiveness of division operations as they relate to improving safety for the traveling public through enforcement of motor carrier regulations would better allow the legislature to establish an appropriations policy for the division. Decision packages are included that directly relate to providing more operational coverage for weigh stations or improving operational efficiencies through an organizational change. Measurable objectives would allow the legislature to discuss outcomes expected from these budget requests and later evaluate them to determine if the intended outcomes were achieved. For example, establishing measures for evaluating the safety impacts that result from moving to a five-district structure for the motor carrier enforcement function would allow the legislature at a later date to see the effectiveness of funding DP 2212 - MCS Enforcement Bureau Realignment.

The legislature may wish to discuss with the division how it could to provide appropriately written objectives for the goal that are linked to the budget request.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Motor Carrier Services Div.							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000	Total State Special Funds	\$ 6,050,642	79.5%	\$ 9,287,317	74.1%	\$ 9,292,964	74.8%
	02294 Ucr Fund	259,581	3.4%	1,308,579	10.4%	1,308,579	10.5%
	02422 Highways Special Revenue	5,791,061	76.1%	7,978,738	63.7%	7,984,385	64.2%
03000	Total Federal Special Funds	1,559,222	20.5%	3,245,845	25.9%	3,139,051	25.2%
	03166 Mesap-Truck Inspection Program	932,632	12.3%	3,245,845	25.9%	3,139,051	25.2%
	03407 Highway Trust - Sp Rev	626,590	8.2%	-	-	-	-
Grand Total		\$ 7,609,864	100.0%	\$ 12,533,162	100.0%	\$ 12,432,015	100.0%

The Motor Carrier Services Division is funded by the highways state special revenue fund and federal special revenue. State funds are revenue from highway user fees such as motor fuel taxes and gross vehicle weight fees. Except for \$2,617,158 unified carrier registration state special revenue all remaining state special revenue for the 2011 biennium is from the constitutionally restricted highways state special revenue account (\$16,163,123). Federal funds are from federal Motor Carrier Safety Assistance Program grants.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	7,609,864	7,609,864	15,219,728	60.96%
Statewide PL Adjustments	0	0	0	0.00%	558,415	581,427	1,139,842	4.57%
Other PL Adjustments	0	0	0	0.00%	1,506,089	1,507,099	3,013,188	12.07%
New Proposals	0	0	0	0.00%	2,858,794	2,733,625	5,592,419	22.40%
Total Budget	\$0	\$0	\$0		\$12,533,162	\$12,432,015	\$24,965,177	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010						Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					827,735					849,794
Vacancy Savings					(277,846)					(278,722)
Inflation/Deflation					8,526					10,355
Total Statewide Present Law Adjustments					\$558,415					\$581,427
DP 2202 - Montana-Wyoming Joint Port Project	0.00	0	245,977	0	245,977	0.00	0	245,977	0	245,977
DP 2205 - Unified Carrier Registration (UCR)	0.00	0	1,027,574	0	1,027,574	0.00	0	1,027,574	0	1,027,574
DP 2208 - Equipment Rental	0.00	0	20,712	11,659	32,371	0.00	0	15,772	8,633	24,405
DP 2210 - OT/Differential	0.00	0	133,524	44,220	177,744	0.00	0	133,524	44,220	177,744
DP 2211 - Training Adjustment	0.00	0	(12,355)	0	(12,355)	0.00	0	(12,355)	0	(12,355)
DP 2214 - Couatts Weight Station	0.00	0	16,798	0	16,798	0.00	0	16,798	0	16,798
DP 2215 - Motor Carrier Safety Assistance Program (MCSAP)	0.00	0	3,596	14,384	17,980	0.00	0	3,596	14,384	17,980
DP 2216 - Laptop Communication Aircard Maintenance	0.00	0	0	0	0	0.00	0	8,976	0	8,976
Total Other Present Law Adjustments										
	0.00	\$0	\$1,435,826	\$70,263	\$1,506,089	0.00	\$0	\$1,439,862	\$67,237	\$1,507,099
Grand Total All Present Law Adjustments					\$2,064,504					\$2,088,526

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

o Market Rate

- The Motor Carrier Services Division follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified
- The statewide personal services adjustment represents salaries for the division at an estimated 96 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 112 percent of market relative to the 2006 executive branch market survey

o Vacancy

- The division has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention. However, it stated that factors that impact vacancies for the division are largely geographic due to many remote or high cost areas of the state covered by the division. The division uses continuous recruitment to address factors that drive long-term or frequent vacancies, but when long-term vacancies occur overtime is used to mitigate impacts to operations

o Legislatively Applied Vacancy Savings

- The division used carry forward authority to achieve the 4.0 percent legislatively applied vacancy savings rate

**LFD
COMMENT**

In terms of FTE-hours, the division experienced a -9.9 percent vacancy rate, with hours expended exceeding calculated hours available from authorized FTE. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division over spent its personal services authority appropriated by the 2007 Legislature by 0.7 percent.

- Pay Changes

- Pay increases given to division staff were limited primarily to career ladder increases and the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature. The 0.6 percent was given to selected individuals to achieve the agency internal equity policy or who were below the target market ratio for their position. Pay increases outside HB 13 were funded with savings from vacancies

**LFD
COMMENT**

Career ladder increases were given to motor vehicle safety inspectors under the division's career ladder progression plan. Total hourly pay increases given for career ladder progression equated to 40 percent of the total hourly pay increases of the 3 percent HB 13 fixed increase for all division employees. The division has 115 positions or 106.50 FTE in career ladder positions. Of these 115 positions, 14 or 12 percent received career ladder increases in FY 2008.

- Retirements

- The division anticipates nine employees would be eligible for full retirement (30 years of state service or 60 years of age) in the 2011 biennium. The agency was unable to determine the 2011 biennium unfunded compensated absence liability cost if these employees retired

DP 2202 - Montana-Wyoming Joint Port Project - An increase of \$492,000 state special revenue for the biennium is requested to pay half of the maintenance expenses and contracted services for half of the salaries of Wyoming state employees operating the port of entry station operating at Dietz, Wyoming, on the Montana and Wyoming border. The Dietz facility is operated as a joint enforcement effort between the two states. Montana contracts with Wyoming to staff and operate the joint port-of-entry. The contract calls for Wyoming personnel to enforce Montana size and weight laws, issue Montana permits, and collect Montana gross vehicle weight fees. Base year costs only reflect three quarters of a year operations and this request would annualize the costs to reflect the contractual obligations of the Wyoming/Montana agreement. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**

Other Joint Ports-of-Entry

Montana operates similar joint ports-of-entry with Idaho and Alberta, Canada under similar cost sharing agreements.

DP 2205 - Unified Carrier Registration (UCR) - An increase of \$2.1 million state special revenue for the biennium is requested for Motor Carrier Safety Assistance Program (MCSAP) and Expanded Commercial Vehicle Information Systems and Networks (ECVISN) projects.

**LFD
COMMENT**

A provision in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) that authorizes federal funding for highways eliminated the Single State Registration System (SSRS) effective January 01, 2007, and required participating states to implement the Uniform Carrier Registration (UCR) program. The UCR program requires individuals and companies that operate commercial motor vehicles in interstate or international commerce to register their business with the state of residence and pay an annual fee based on the size of their fleet. States receive UCR revenue equal to the revenue previously derived from SSRS, which must be used to fund commercial motor carrier safety activities administered through the state Motor Carrier Safety Assistance Program (MCSAP). The 2007 Legislature approved funding for the division UCR activities for FY 2009. Because funding was not approved and expenditures not made in the base year, the executive must request funding for the 2011 biennium.

The division is currently developing a plan to submit to the Federal Motor Carrier Safety Administration (FMCSA) for the Expanded Commercial Vehicle Information Systems and Networks (ECVISN) project. The 2007 Legislature approved \$980,000 federal special revenue for FY 2009 to fund MCSAP and ECVISN projects. However, the funding should have been state special revenue.

DP 2208 - Equipment Rental - An increase of \$56,800 state special revenue for the biennium is requested to fund the program share of proposed increases in the Equipment Program - an internal service program exclusively serving programs of the Department of Transportation. A discussion of the equipment rental rates is contained in the proprietary discussion for the Equipment Program. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 2210 - OT/Differential - An increase of \$355,500 combined state special and federal special revenue for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$46,400 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 2211 - Training Adjustment - A reduction of \$24,700 state special revenue for the biennium is proposed to reduce funding for training. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 2214 - Coutts Weight Station - An increase of \$33,600 state special revenue for the biennium is requested to address cost increases associated with the department's contract with Alberta, Canada, for shared use of the Coutts weigh station and inspection facility. The increase in value of the Canadian dollar and maintenance costs have risen since the contract was approved October 19, 2004. As per the contract with Alberta, Montana is billed annually and the statement is in Canadian dollars. Montana must convert the statement amount to United States currency based on the current exchange rate. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
ISSUE****Return to Favorable Exchange Rate**

When asked, the agency failed to provide the exchange rate assumptions used to develop the decision package, but stated the decision package was based on annual expenditures from FY 2008 as its basis and the decision package was a best guess at the costs for the 2011 biennium.

Expenditures in FY 2008 represent quarterly payments to Alberta based on an invoice of contractual costs in Canadian dollars. FY 2008 represents a year when the exchange rate of the U.S. dollar (USD) was weak against the Canadian dollar (CD). Historically, it is extremely rare for the USD to be weak against the CD. During FY 2008, \$1.0 USD traded for \$0.99 CD. Typically the roles are reversed and \$1 USD trades for about \$1.2 CD. The effect of the weak USD was that higher than typical state expenditures were made to fulfill Montana's contractual commitment for costs to operate the Coutts weigh station. As such, the base is high for these costs.

Since the budget was submitted, the USD has strengthened and as of December 1, 2008, was trading at near its typical level of \$1.0 USD to more than \$1.2 CD. As a result of the strengthening of the USD to its historically typical level, the adjustment is not needed and a justification could be made that a reduction is in order for two reasons: 1) the base is inflated due to a weak USD; and 2) the strengthening of the USD means less state funds are needed to fund the contract costs for the Coutts weigh station.

The legislature may want to discuss with the program how the recent return to a historically typical exchange rate impacts the request.

DP 2215 - Motor Carrier Safety Assistance Program (MCSAP) - An increase of nearly \$36,000 combined state special and federal special revenue for the biennium is requested for increased training and vehicle rental costs of the Motor Carrier Safety Assistance Program (MCSAP). The increased cost is due to training new recruits and in-state work related travel expenses. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 2216 - Laptop Communication Aircard Maintenance - An increase of nearly \$9,000 state special revenue is requested for FY 2011 for monthly air-card charges. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
ISSUE****Air-card**

The Air-card is a digital cellular card that enables patrol officers and their supervisors to securely access state and federal databases from their patrol vehicles using wireless cell phone technology when checking for compliance issues with commercial motor vehicles. FY 2010 funding to provide the service is contained in DP 2206 - Performance Registration Information Systems Mgmt, which is requested below as a new proposal for the division.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2201 - Maximization Weigh Station I90 Corridor										
22	8.00	0	385,370	68,006	453,376	8.00	0	385,519	68,033	453,552
DP 2206 - Performance Registration Info Systems Mgmt - OTO										
22	0.00	0	0	173,562	173,562	0.00	0	0	0	0
DP 2207 - Border Enforcement Grant (BEG)										
22	0.00	0	0	1,732,042	1,732,042	0.00	0	0	1,763,633	1,763,633
DP 2212 - MCS Enforcement Bureau Realignment										
22	0.00	0	499,814	0	499,814	0.00	0	516,440	0	516,440
Total	8.00	\$0	\$885,184	\$1,973,610	\$2,858,794	8.00	\$0	\$901,959	\$1,831,666	\$2,733,625

DP 2201 - Maximization Weigh Station I90 Corridor - An increase of nearly \$907,000 combined state special and federal special revenue for the biennium is requested to fund increases of 16 positions, each currently funded at 0.50 FTE to 1.00 FTE each. The increase in the FTE for these positions would increase enforcement presence and allow for 24 hour, 7 days per week, and 365 days per year coverage on the Interstate 90 corridor. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 2206 - Performance Registration Info Systems Mgmt - OTO - An increase of \$173,562 federal special revenue for the FY 2010 is requested for the Performance Registration Information Systems Management (PRISM) project.

**LFD
COMMENT**

Background on PRISM

During FY 2008, no expenditures were made on the Performance Registration Information Systems Management (PRISM) project, but expenditures are anticipated of FY 2009. This request would continue PRISM with future funds available from the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA grant is to purchase hardware, make software enhancements, and for contracted services to enter the data into the data base. The purpose of this grant is to improve the safety of the highways by having the ability to refuse commercial vehicle registration to a commercial vehicle that has an unsatisfactory safety rating. The safety rating is established by the inspections that have been performed on the commercial vehicles either roadside, at scales, or at accidents. Carriers that improved the safety ratings would be able register. There is proposed legislation to refuse the registration of unsafe commercial vehicles. The funding of this grant is not dependant on the proposed legislation.

**LFD
ISSUE**

Candidate for OTO Funding

Funding for this non-recurring information system project is requested only for FY 2010. The legislature may want to designate funding for this request as one time only to keep this non-recurring item out of the base for the 2013 biennium.

DP 2207 - Border Enforcement Grant (BEG) - An increase of \$3.5 million federal special revenue for the biennium is requested to monitor commercial vehicles safety associated with commercial vehicles on all international ports-of-entry along Montana's northern border with Canada.

**LFD
ISSUE****Current Biennium Funding for Border Enforcement**

A budget amendment for nearly \$2.2 million for FY 2008 and an extension into FY 2009 with 5.25 FTE modified was approved by the Governor for federal funds to increase the number of safety inspections and commercial driver's license checks to reduce illegal transport operations on commercial motor vehicles entering the United States via Montana/Canadian ports along and around Montana's northern border. The purpose of the grant was to ensure commercial motor vehicles entering the US from a foreign country are in compliance with commercial vehicle safety standards and regulations, financial responsibility regulations, and registration requirements of the U.S. and to ensure drivers of those vehicles are qualified and properly licensed to operate the commercial motor vehicle. This request would establish this funding as a part of the division's on-going HB 2 funding. When the budget amendment was extended to FY 2009, the documentation indicated that 1.75 FTE would be needed for FY 2010. No FTE are funded in this budget request.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification - The division has identified a corridor that stretches from Idaho on Montana's western border to the North Dakota border in the East. The corridor's southern boundary is US Highway 2 and the Canadian border is the northern boundary. All north/south routes within the corridor boundary will be patrolled by division personnel or monitored using technology as the result of this grant.

The purpose of the grant is to ensure commercial motor vehicles entering the US from a foreign country are in compliance with commercial vehicle safety standards and regulations, financial responsibility regulations and registration requirements of the US and to ensure drivers of those vehicles are qualified and properly licensed to operate the commercial motor vehicle.

The purpose is to increase the safety and security on state and federal highways in Montana by conducting safety inspections and commercial driver license checks and reducing illegal transport operations on commercial motor vehicles entering the United States via Montana/Canadian Ports along and around the northern border. In addition to the safety and credential checks, size and weight and evidence of fuel tax evasion checks are conducted at the same time.

A border enforcement special activity was complete in July of 2008. A total of 326 safety inspections were completed with 46 commercial vehicles placed out of service and 19 drivers placed out of service over a three day period. Had this not been completed, these drivers and commercial vehicles would have been operating unsafely and/or illegally in Montana.

Although Montana and Alberta have jointly operated the Port of Sweet Grass at Coutts, which by the nature of its location is all international traffic, the twelve remaining ports and associated roadways statewide within the corridor have received no international commercial motor vehicle focus. This is due in part to lack of resources. Previous studies have shown that illegal commercial motor vehicle safety and other activities are occurring across the border, so this issue needs to be addressed.

Goal - To detect illegal international commercial motor vehicle safety, credentials and other criminal activities on Montana roadways within and throughout an approximately 600x50 mile corridor across Montana and immediately south of Canada, and enforce federal and state regulations and laws to improve highway safety and security. In addition, detect the commercial motor vehicle illegal transport of cargo and sabotage and reduce these activities through enforcement of applicable federal regulations and state laws.

These outcomes fit into the Montana Department of Transportation's mission statement by providing a safe transportation system and protecting Montana's infrastructure investment.

Performance Criteria - The following performance criteria have been identified:

- Annually perform 1650 commercial motor vehicle safety inspections within the border enforcement corridor. Of the 1650 inspections, 500 will be a full safety inspection of the driver and the vehicle with 100 of these being commercial motor vehicles carrying hazardous materials, 150 safety inspections will be a vehicle walk around, and 1000 safety inspections will be driver only. The performance measure will be the actual number of inspections of each type conducted during the year
- Annually conduct 1300 federal and state credential checks including operating authority, commercial driver license, and insurance. The performance measure is the percentage of out of service drivers as a result of commercial driver license and operating authority violations during the year
- Annually conduct 600 fuel cargo tank checks and certifications. The performance measure is the actual number of cargo tank checks and inspections reported during the year
- At the end of each year, an evaluation based on the percent of violations in each category will be performed. The different levels of each performance criteria will be adjusted the following year to reflect the results of the evaluation

Milestones - The following milestones have been identified:

- Hiring FTE – the seven FTE have already been hired
- Equipment to support enforcement and safety operations – most of the equipment was purchased during the spring and summer of 2008; the remaining cost will be to maintain the equipment
- Upgrade existing and construct new roadside facilities to provide safe locations to stop and inspect commercial motor vehicles – The roadside facilities consist of a paved lane at the roadside with signs, lighting and safety equipment. Two roadside facilities have been installed, one in June of 2008 and the other in September of 2008. In federal FY 2009, another two sites will be installed. No future sites beyond the sites installed in federal FY 2009 have been identified
- Virtual Ports of Entry – Motor Carrier Services Division is in the process of evaluating two virtual ports of entry. These systems will remotely weigh and photograph commercial motor vehicles to identify visual safety or weight violations. The photographs will also read a commercial motor vehicles name and carrier assigned number (US DOT #) which can be used to check credentials and operating authority. The systems can be monitored statewide and enforcement can be dispatched when violations are noticed. The two systems were installed in September 2008. The evaluation will be based on data collected one year prior to September 2008 as the base year and compared with data collected in the next two years. Additional virtual ports of entry will be added in the future depending on the outcome of the evaluation

FTE - Under the current budget amendment funding in the 2009 biennium 7.00 modified FTE were added and all 7.00 FTE have already been hired. Motor Carrier Services (MCS) used modified FTE over contracted services for the following reasons; (1) MCS officers go through the law enforcement training academy and national safety certified training before seeing duty as an officer in the field; (2) MCS officers must report through a chain of command providing better management control, where as a contracted services manager would normally only communicate with a Bureau Chief or program manager; (3) legal considerations for enforcing and issuing commercial motor vehicle and/or driver fines; (4) better control over reporting mandates; and (5) consistency and quality control in reporting of performance measures. 6.00 modified FTE are motor carrier services enforcement officers and the other position is a special projects manager. The 6.00 modified FTE will be patrol enforcement officers focused entirely on border enforcement of commercial motor vehicles. The special projects manager will coordinate and monitor border enforcement activities. This position will also manage the border enforcement grant including purchasing, budgeting, reporting, and compliance with federal regulations. Currently, there are no recruitment issues.

Funding - The funding is 100 percent federal funds and is available through the end of the current federal highway bill (SAFETEA-LU). The department expects the same level of funding to be available through the next federal highway bill.

Obstacles - Future virtual ports of entry may not be funded based on the results of the evaluation. If the results are unfavorable, other technology can be used to focus resources or the technologies will not be implemented.

The federal funding may not be available in the next federal highway bill. If this happens, the agency will absorb the modified FTE as enforcement positions are vacated.

Risks - The increase presence of enforcement on the border deters illegal commercial motor vehicle activities along Montana's 600 plus mile border with Canada. Without enforcement presence, the border in Montana is open to these illegal and dangerous commercial motor vehicle activities.

DP 2212 - MCS Enforcement Bureau Realignment - An increase of \$1 million state special revenue for the biennium is requested to realign the structure of the enforcement function within the division from three regions to 5 regions similar to how the rest of the department is structured. This request would include costs to address the rank structure for the Enforcement Bureau as a result of negotiated agreement. The costs are due to reassignment of existing FTE to promote a more effective, accountable, consistent enforcement plan. The reorganization is designed to provide increased oversight and performance management. The expectation is to realize better accuracy, increased performance and better serving the mission to protect the taxpayer investment towards infrastructure and a safer environment for the traveling public as a result of this plan. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
ISSUE****Performance Measurement**

This request would move the division from a three region to a five region management structure with the stated outcome to increase the effectiveness of the enforcement function. The request relates directly to the key goal identified for the program. The legislature may want to discuss with the division development of performance measures to allow the legislature to monitor realignment to the five-region structure in terms of improvements to program effectiveness and increased safety for Montana citizens.

The legislature may wish to monitor the performance of this realignment during the interim to determine if the realignment is improving the effectiveness of the division's enforcement efforts and if the outcomes stated in the key program goal are being attained.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	9.00	9.00	9.00	9.00	9.00	9.00	0.00	0.00%
Personal Services	616,085	620,178	594,124	597,470	1,236,263	1,191,594	(44,669)	(3.61%)
Operating Expenses	950,314	1,693,345	603,673	301,047	2,643,659	904,720	(1,738,939)	(65.78%)
Equipment & Intangible Assets	10,104	12,800	10,104	10,104	22,904	20,208	(2,696)	(11.77%)
Grants	880,588	973,412	1,854,000	4,000	1,854,000	1,858,000	4,000	0.22%
Transfers	13,701	10,283	13,701	13,701	23,984	27,402	3,418	14.25%
Total Costs	\$2,470,792	\$3,310,018	\$3,075,602	\$926,322	\$5,780,810	\$4,001,924	(\$1,778,886)	(30.77%)
State Special	1,889,421	1,921,746	2,790,813	926,572	3,811,167	3,717,385	(93,782)	(2.46%)
Federal Special	581,371	1,388,272	284,789	(250)	1,969,643	284,539	(1,685,104)	(85.55%)
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$2,470,792	\$3,310,018	\$3,075,602	\$926,322	\$5,780,810	\$4,001,924	(\$1,778,886)	(30.77%)

Program Description

The Montana Aeronautics Division: 1) facilitates the operation and infrastructure of airports and airways, both public and private, throughout Montana; 2) provides mechanisms for funding airport and aviation related projects throughout the state; 3) registers aircraft and pilots in accordance with Montana laws and regulations; and fosters, promotes, and supervises aviation and aviation safety through educational efforts and programs; and 4) coordinates and supervises aerial search and rescue operations. The division administers a loan and grant program to municipal governments to fund airport improvement projects. The Aeronautics Board approves all loan and grant requests and advises on matters pertaining to aeronautics.

The division serves as a liaison between the State of Montana and various other entities including the U.S. Department of Transportation, the Federal Aviation Administration (FAA), other federal and state entities, and commercial airlines in order to assure the retention and continuation of airline service to Montana's rural communities. The division is also responsible for operation of the air carrier airport at West Yellowstone and for 14 other state-owned airports.

Program Highlights

Aeronautics Division Major Budget Highlights	
♦	The division HB 2 budget would decline by \$1.8 million, or 30.8 percent, from the 2009 biennium to the 2011 biennium <ul style="list-style-type: none"> • Total funds are reduced by \$1.0 million to remove base funding associated with airport rehabilitation projects undertaken in the base that will not recur in the 2011 biennium • Unspecified program reductions of \$153,000 are proposed to contain expenditures within revenues
Major LFD Issues	
♦	The fund that supports the operation of the division is out of balance and declining

Program Narrative

2009 Biennium Major Goals Monitored

No goals specific to this program were monitored during the 2009 biennium

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The LFD recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

- Provide for the protection of the flying public and the promotion of flight safety and accident prevention programs and other state aviation interests
 - Coordinate safety programs for pilots and other aviation industry interests

LFD ISSUE

The number one policy in statute for aeronautics in Montana is to provide for the protection and promotion of safety in aeronautics. This goal is significant to that statutory policy statement. An issue in the funding discussion identifies a problem with the funding for the basic operation of the division. The legislature may want to monitor this goal and objective during the interim as a means of monitoring what the impacts on this significant policy are from the financial problems the division faces. However, the objective as written for the goal does not provide specific and measurable actions that are time based and would not allow the legislature to establish an appropriations policy for the division and determine its effectiveness at a later date. The objective also does not state what safety programs would be coordinated nor does it state when the programs would be accomplished.

The legislature may wish to discuss with the division appropriately written objectives, which are specific in the actions intended, the time period in which the actions will be taken, and how the actions will be measured.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Aeronautics Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$1,889,421	76.5%	\$2,790,813	90.7%	\$926,572	100.0%
02286 Aeronautical Loan Account	345,495	14.0%	800,000	26.0%	0	-
02287 Aeronautical Grant Account	447,093	18.1%	800,000	26.0%	0	-
02827 Aeronautics Division	1,012,833	41.0%	940,813	30.6%	926,572	100.0%
02962 Airport Pmnt. Preservation	84,000	3.4%	250,000	8.1%	0	-
03000 Total Federal Special Funds	581,371	23.5%	284,789	9.3%	(250)	0.0%
03060 Aeronautics Division	<u>581,371</u>	<u>23.5%</u>	<u>284,789</u>	<u>9.3%</u>	<u>(250)</u>	<u>0.0%</u>
Grand Total	<u>\$2,470,792</u>	100.0%	<u>\$3,075,602</u>	100.0%	<u>\$926,322</u>	100.0%

The Aeronautics Program, excluding the operations of the West Yellowstone Airport, is funded by both state and federal special revenue funds. State special revenue funds are derived primarily from state aviation fuel taxes and aviation license fees. Federal special revenue comes from Federal Aviation Administration grants. Operations of the West Yellowstone Airport are funded from an enterprise type proprietary fund with revenues that include local property taxes, rentals and leases, concession sales receipts, and landing fees. Because the proprietary funds do not require an appropriation, they are not included in the above table.

**LFD
ISSUE****Declining Fund Balance Aeronautics State Special Revenue Account**

Since FY 2007, the state special revenue account that funds the main operations of the Aeronautics Program has been declining in both fund balance and cash needed to operate the program. The following figure illustrates the fund balance for this account for the current and 2011 biennia. The figure shows that even with reductions contained in decision packages the fund is barely in balance for the 2011 biennium and is running a deficit going into the biennium.

Aeronautics Program Fund Balance Report				
	FY 2008 Actual	FY 2009 Appropriated	FY 2010 Budgeted	FY 2011 Budgeted
Operating Expenses:				
Personal Services	\$616,085	\$620,178	\$594,124	\$597,470
Other Operating Expenses	<u>475,675</u>	<u>328,156</u>	<u>346,689</u>	<u>329,102</u>
Total Operating Expenses	1,091,760	948,334	940,813	926,572
Operating Revenues:				
Aviation fuel tax	634,977	636,564	638,155	639,751
Other Operating Revenues	<u>194,360</u>	<u>333,119</u>	<u>295,420</u>	<u>297,592</u>
Total Operating Revenue	829,337	969,683	933,575	937,343
Operating Gain (Loss)	(262,423)	21,349	(7,238)	10,771
Nonoperating Sources (Uses) (Note 1)				
Net Assets as of July 1 (Beginning of Fiscal	121,937	(152,248)	(130,899)	(138,137)
Net Increase (Decrease) of Net Assets	(262,423)	21,349	(7,238)	10,771
Prior Period Adjustments	<u>(11,762)</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Assets as of June 30 (End of Fiscal Year	<u>(\$152,248)</u>	<u>(\$130,899)</u>	<u>(\$138,137)</u>	<u>(\$127,366)</u>

About 77 percent of the revenues into the fund are from a tax of \$0.02 per gallon on aviation fuel sold in the state, except for fuel sold to the federal defense fuel supply center. These aviation fuel tax revenues are less volatile to rising prices than revenues from automobile fuels because they are derived from taxes paid by commercial air carriers and private aircraft operators. Commercial air carriers, which generate the majority of the aviation fuel tax revenues, are less able to reduce fuel consumption when fuel prices rise than the general traveling public. However, revenues have averaged a 2 percent annual growth over the last four years and are not keeping up with the growth in expenditures.

Expenditures are driven by personal services, which accounted for 56 percent of FY 2008 expenditures. Personal services have been growing by 7 percent except from FY 2006 to FY 2007 when personal services grew by 13.5 percent after the department converted to the broadband pay plan.

The legislature may want request clarification on the reductions and their anticipated impacts on operations, and it may want to consider monitoring the status of the fund during the interim. One way to monitor this situation is through the monitoring of the key goal identified for the agency in the Program Discussion section for this program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	2,470,792	2,470,792	4,941,584	123.48%
Statewide PL Adjustments	0	0	0	0.00%	28,425	33,904	62,329	1.56%
Other PL Adjustments	0	0	0	0.00%	576,040	(1,578,673)	(1,002,633)	(25.05%)
New Proposals	0	0	0	0.00%	345	299	644	0.02%
Total Budget	\$0	\$0	\$0		\$3,075,602	\$926,322	\$4,001,924	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					40,611					44,108
Vacancy Savings					(26,268)					(26,408)
Inflation/Deflation					7,543					8,927
Fixed Costs					6,539					7,277
Total Statewide Present Law Adjustments					\$28,425					\$33,904
DP 4003 - OT/Differential	0.00	0	1,950	0	1,950	0.00	0	1,950	0	1,950
DP 4006 - Training Reduction	0.00	0	(3,942)	0	(3,942)	0.00	0	(3,942)	0	(3,942)
DP 4007 - Aeronautic Grants - BIEN	0.00	0	352,907	0	352,907	0.00	0	(447,093)	0	(447,093)
DP 4008 - Aeronautic Loans - BIEN	0.00	0	454,207	0	454,207	0.00	0	(345,495)	0	(345,495)
DP 4009 - Pavement Preservation System - BIEN	0.00	0	166,000	0	166,000	0.00	0	(84,000)	0	(84,000)
DP 4010 - State System Plan - BIEN	0.00	0	9,871	187,551	197,422	0.00	0	(5,129)	(97,449)	(102,578)
DP 4011 - Aeronautics Division Cost Reduction	0.00	0	(56,899)	(17,021)	(73,920)	0.00	0	(61,909)	(17,022)	(78,931)
DP 4015 - Aeronautics Division Airport Adjustment	0.00	0	(31,500)	(487,084)	(518,584)	0.00	0	(31,500)	(487,084)	(518,584)
Total Other Present Law Adjustments	0.00	\$0	\$892,594	(\$316,554)	\$576,040	0.00	\$0	(\$977,118)	(\$601,555)	(\$1,578,673)
Grand Total All Present Law Adjustments					\$604,465					(\$1,544,769)

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- Market Rate

- The Aeronautics Program follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified

- The statewide personal services adjustment represents salaries for the division at an estimated 96 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 112 percent of market relative to the 2006 executive branch market survey
- Vacancy
 - The program has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention
- Legislatively Applied Vacancy Savings
 - The program shifted funding from other operational areas in order to achieve the 4.0 percent legislatively applied vacancy savings rate

**LFD
COMMENT**

In terms of FTE-hours, the division experienced a 0.2 percent vacancy rate. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division under spent its personal services authority appropriated by the 2007 Legislature by 0.5 percent, so fell short of achieving the 4 percent applied vacancy saving. The above statistics show that the small size and low turnover in this program impacted its ability to achieve the applied vacancy savings without using funding from other program areas.

- Pay Changes
 - Pay increases given to division staff were limited primarily to the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature, and to bring individuals up to the market rate of the 2006 executive market survey for their occupations. The 0.6 percent and market increases were given to selected individuals to achieve the market levels
 - Funds were shifted from other operational areas to provide the salary increases outside HB 13, but no operational impacts were identified
- Retirements
 - The program anticipates no retirements in the 2011 biennium

DP 4003 - OT/Differential - An increase of \$3,900 state special revenue for the biennium is requested to re-establish the Aeronautics Board per diem at the base level.

DP 4006 - Training Reduction - A reduction of nearly \$7,900 state special revenue for the biennium is proposed to reduce funding for training.

DP 4007 - Aeronautic Grants - BIEN - A reduction of about \$94,200 state special revenue is proposed to establish a biennium funding level of \$800,000 for airport safety and development grants in the first year of the biennium. The full amount of the base would be reduced for FY 2011 while double the base less the amount of the reduction would be established in FY 2010. The executive requests a biennial appropriation for this funding and the base.

DP 4008 - Aeronautic Loans - BIEN - An increase of about \$108,400 state special revenue is requested to establish a biennium funding level of \$800,000 for the aeronautics loan program in the first year of the biennium. The full amount of the base would be reduced for FY 2011 while double the base plus the amount of the increase would be established in FY 2010. The executive requests a biennial appropriation for this funding and the base.

DP 4009 - Pavement Preservation System - BIEN - An increase of \$82,000 state special revenue is requested to establish a biennium funding level of \$250,000 for the pavement preservation grants program in the first year of the biennium. The full amount of the base would be reduced for FY 2011 while double the base plus the amount of the increase would be established in FY 2010. The executive requests a biennial appropriation for this funding and the base.

DP 4010 - State System Plan - BIEN - An increase of \$94,800 combined state special and federal special revenue is requested to establish a biennium funding level of \$300,000 to update the Montana aviation system plan in a

cooperative effort between the department and the Federal Aviation Administration. The executive requests a biennial appropriation for this funding and the base.

DP 4011 - Aeronautics Division Cost Reduction - A reduction of nearly \$152,900 combined state special and federal special revenue is proposed to reduce the program's funding for unspecified program reductions in personal services and operating expenses.

DP 4015 - Aeronautics Division Airport Adjustment - A reduction of just over \$1.0 million combined state special and federal special revenue for the biennium is proposed to reflect the fact that there are no major projects planned in the 2011 biennium for state-owned airports, but the base includes funding for projects at the Lincoln and West Yellowstone Airports.

New Proposals

New Proposals											
-----Fiscal 2010-----						-----Fiscal 2011-----					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 6101 - Fixed Cost Workers Comp Mgmt Program											
	40	0.00	0	345	0	345	0.00	0	299	0	299
	Total	0.00	\$0	\$345	\$0	\$345	0.00	\$0	\$299	\$0	\$299

DP 6101 - Fixed Cost Workers Comp Mgmt Program - The Workers' Compensation Management program at the Department of Administration was funded by the 2009 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes funding via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as a one time only for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Program - West Yellowstone Airport

Proprietary Program Proposed Budget

The following table summarizes the total executive budget proposal for this proprietary program by year.

West Yellowstone Airport - Proposed Budget					
Budget Item	Actual Base	FY 2010	FY 2010	FY 2011	FY 2011
		Adjustments	Total	Adjustments	Total
FTE	1.29	0.71	2.00	0.71	2.00
Personal Services	\$131,902	\$18,824	\$150,726	\$19,046	\$150,948
Operating Expense	74,499	16,791	91,290	16,988	91,487
Equipment	36,197	(26,197)	10,000	(36,197)	0
Total Costs	<u>\$242,598</u>	<u>\$9,418</u>	<u>\$252,016</u>	<u>(\$163)</u>	<u>\$242,435</u>

Proprietary Program Description

The West Yellowstone Airport provides a fly-in gateway to the town of West Yellowstone, Yellowstone Park, and surrounding US Forest Service area recreational opportunities. The airport is seasonal in its operation matching the peak tourist demand of the area from June 1 to September 30. The airport serves as an inter-agency fire control center with

both smoke jumpers and fire retardant bombers located at the airport. The airport accomplishes these missions with extensive facilities to accommodate aircraft of various sizes. The airport has a terminal building with tenants that provide the following functions: cafe, gift shop, two car rental agencies, fixed based operation (FBO) serving general aviation, and Skywest Airlines. The operation of the West Yellowstone Airport is funded from an enterprise type proprietary fund.

Proprietary Funding

The West Yellowstone Airport is funded from revenue derived from landing fees, building space rental fees, fuel flowage fees, sales receipts, and non-aero rentals.

Program Narrative

Expenses from the fund are for personal services for 1.29 FTE and operating expenses such as janitorial supplies, insurance, facility maintenance, and matching funds for federally funded capital improvement projects at the airport.

The figure for fund 06007 shows the financial information for the fund from FY 2008 through FY 2011. The LFD edited and reconfigured the figure to clarity.

2011 Biennium Report on Internal Service and Enterprise Funds						
Fund	Fund Name	Agency #	Agency Name	Program Name		
06007	West Yellowstone Airport	54010	Transportation	Aeronautics Program		
			Actual FY08	Budgeted FY09	Projected FY10	Projected FY11
Operating Expenses:						
Personal Services			134,965	151,373	150,726	150,948
Other Operating Expenses			<u>194,570</u>	<u>91,684</u>	<u>101,897</u>	<u>92,170</u>
Total Operating Expenses			\$329,535	\$243,057	\$252,623	\$243,118
Operating Revenues:						
Revenue From Fees			46,638	59,995	58,881	60,430
Investment Earnings			0	0	0	0
Securities Lending Income			0	0	0	0
Other Operating Revenues			<u>126,178</u>	<u>176,292</u>	<u>173,019</u>	<u>177,570</u>
Total Operating Revenue			\$172,816	\$236,287	\$231,900	\$238,000
Operating Gain (Loss)			(156,719)	(6,770)	(20,723)	(5,118)
Nonoperating Sources (Uses) (Note 1)			195,752	22,587	13,700	13,700
Net Assets as of July 1 (Beginning of Fiscal Y			\$2,314,888	\$2,345,099	\$2,360,916	\$2,353,893
Net Increase (Decrease) of Net Assets			39,033	15,817	(7,023)	8,582
Prior Period Adjustments			(8,822)	0	0	0
Cumulative Effect of Account Change			<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Assets as of June 30 (End of Fiscal Year)			<u>\$2,345,099</u>	<u>\$2,360,916</u>	<u>\$2,353,893</u>	<u>\$2,362,475</u>
Note 1 - Federal indirect cost recovery						

Proprietary Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

West Yellowstone Airport - Present Law Adjustments				
Budget Item	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
Statewide Present Law Adjustments	0.00	(41,163)	0.00	(40,787)
DP 4004 - West Yellowstone Airport	0.71	62,562	0.71	62,593
DP 4014 - West Yellowstone Airport	0.00	(11,981)	0.00	(21,969)
Total Present Law Adjustments	0.71	\$9,418	0.71	(\$163)

DP 4004 - West Yellowstone Airport FTE – An increase of \$125,155 proprietary funds for the biennium to add a total of 0.71 FTE for three existing positions to raise their combined total to 2.00 FTE. Funding includes the addition of state health insurance for two positions in which the FTE level is increased to 0.5 FTE. To maintain its federal airport certification the West Yellowstone Airport will require a full year FTE.

DP 4014 - West Yellowstone Airport Adj. – A reduction of \$33,950 proprietary funds for the biennium is proposed to remove base funding for airport maintenance projects that will not occur in the 2011 biennium.

Proprietary Rates

For the 2011 biennium, the following rates would generate revenue commensurate with the costs as presented in the executive budget proposal. Because the West Yellowstone Airport proprietary fund is an enterprise type fund, statute does not require the legislature to approve the maximum rates the program may charge during the biennium. Instead, the legislature identifies concerns with financial statement provided above. The following rates are provided for informational purposes only.

West Yellowstone Airport - Rates				
	Actuals FY 2008	Budgeted FY 2009	Budgeted FY 2010	Budgeted FY 2011
Landing Fees - Scheduled Air Carrier	\$0.60/1000 lbs	\$1.10/1000lbs	\$1.10/1000 lbs	\$1.10/1000 lbs
Landing Fees - Other uses	11,000-31,250 lbs = \$25.00	9,001-16,500lbs = \$25.00	9,001-16,500lbs = \$25.00	9,001-16,500lbs = \$25.00
Landing Fees - Other uses	>31,250 lbs = \$0.80/1000lbs	>16,500 lbs = \$1.60/1000lbs	>16,500 lbs = \$1.60/1000lbs	>16,500 lbs = \$1.60/1000lbs
Fuel Flowage Fee	\$0.06/Gallon	\$0.06/Gallon	\$0.06/Gallon	\$0.06/Gallon
Building Leases - Car rental, FBO, Air	\$2.00/sq.ft.	\$2.00/sq.ft.	\$2.00/sq.ft.	\$2.00/sq.ft.
Building Leases - Hangar Ground	\$0.10/sq.ft.	\$0.12/sq.ft.	\$0.12/sq.ft.	\$0.12/sq.ft.
Tax Transfers	\$11,000	\$11,000	\$11,000	\$11,000
Sales Receipts	10% of Gross Sales	10% of Gross Sales	10% of Gross Sales	10% of Gross Sales
Non-Aero Rentals				
Nevada Testing	Prior Year = C.P.I	Prior Year = C.P.I	Prior Year = C.P.I	Prior Year = C.P.I
City	\$10,000/Year	\$10,000/Year	\$10,000/Year	\$10,000/Year
Energy West	\$12,500/Year	\$12,500/Year	\$12,500/Year	\$12,500/Year

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	74.60	74.60	76.60	76.60	74.60	76.60	2.00	2.68%
Personal Services	4,572,775	4,790,363	5,143,474	5,169,592	9,363,138	10,313,066	949,928	10.15%
Operating Expenses	3,316,308	6,083,474	3,496,593	3,334,473	9,399,782	6,831,066	(2,568,716)	(27.33%)
Equipment & Intangible Assets	36,089	18,340	36,089	36,089	54,429	72,178	17,749	32.61%
Local Assistance	447,116	407,684	447,116	447,116	854,800	894,232	39,432	4.61%
Grants	12,129,072	22,054,172	13,738,315	13,738,315	34,183,244	27,476,630	(6,706,614)	(19.62%)
Total Costs	\$20,501,360	\$33,354,033	\$22,861,587	\$22,725,585	\$53,855,393	\$45,587,172	(\$8,268,221)	(15.35%)
General Fund	0	0	0	0	0	0	0	n/a
State Special	3,724,372	10,123,393	4,031,258	4,034,038	13,847,765	8,065,296	(5,782,469)	(41.76%)
Federal Special	16,776,988	23,230,640	18,830,329	18,691,547	40,007,628	37,521,876	(2,485,752)	(6.21%)
Total Funds	\$20,501,360	\$33,354,033	\$22,861,587	\$22,725,585	\$53,855,393	\$45,587,172	(\$8,268,221)	(15.35%)

Program Description

The Rail, Transit, and Planning Division provides: 1) a continuous statewide multimodal transportation planning process used to allocate highway program resources to ensure highway system performance goals are maintained and federal-aid highway and transit grant eligibility is maintained within the federal surface transportation programs; 2) an inventory of transportation infrastructure for the allocation of state fuel taxes to local governments; 3) support for the state's comprehensive statewide highway safety plan including technical analysis, performance tracking and coordination with multiple administrative agencies and jurisdictions; 4) the point of contact for MDT for major developers seeking access onto the state's highway system; 5) mapping functions to aid in the publication of the state tourist map and geo-spatial infrastructure inventories; 6) transportation planning and programming assistance to metropolitan and urban areas; 7) administration and implementation of safety programs that help reduce traffic deaths, injuries, and property losses resulting from traffic crashes; and 8) responses to legislative or regulatory actions necessitating representation before courts, congressional hearings, the US Department of Transportation, the Surface Transportation Board, and others. statewide planning program and assistance to local area transportation planning. The planning function addresses system areas that include buses for transit systems, street and highway improvements, railroad track rehabilitation, and transportation enhancements for non-motorized and beautification improvements.

Program Highlights

Rail, Transit, and Planning Division Major Budget Highlights	
♦	\$2.1 million federal funds are added to provide grants to local transit entities to purchase buses
♦	\$915,400 federal funds are added to fund projects to implement the department's traffic records strategic plan and to add 1.00 FTE to coordinate the projects
♦	\$344,000 state special revenue is added to increase funding for transit assistance to elderly and disabled individuals to align with revenue projections
♦	\$150,000 is added to provide stipends for maintenance of city park rest areas
♦	A shift in expenditure categories with no funding impacts would provide funding to add 1.00 FTE to coordinate state and tribal highway safety initiatives

Major LFD Issues
<ul style="list-style-type: none"> ◆ Performance criteria and milestones to support a funding to fund the addition of staff and projects costs to implement the traffic records strategic plan would be more meaningful if the agency would prioritize and provide key indicators

Program Narrative*2009 Biennium Major Goals Monitored*

No goals specific to this program were monitored during the 2009 biennium

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The LFD recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The following are goals for the 2011 biennium and key objectives that are supported by decision packages or base funding included in the executive budget for the program:

- Develop and implement a long-range multi-modal construction program that addresses Montana's most important statewide transportation needs, is consistent with statewide long-range transportation plan and management system output, and maximizes the use of federal funds through the Performance Programming Process (P3)
 - Ensure at least 70 percent of available federal and state resources are prioritized into a performance based funding plan to support core state highway system needs (Interstate, national highway, and state primaries) based on system goals defined through P3. P3 outcome goals include:
 - Pavement Condition: provide a ride experience for the traveling public within desirable or superior range (average ride index above 60) with less than 3 percent of lane miles exhibiting poor ride characteristics
 - Reduce the number of structurally deficient and functionally obsolete bridges
 - Maintain average statewide mobility within desirable or superior ranges (level of service C or greater)
 - Lower traffic fatalities to 1.0 per million vehicle miles traveled and incapacitating injuries to 950 per year by 2015

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Rail, Transit, & Planning Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ -	-	\$ -	-
01100 General Fund	-	-	-	-	-	-
02000 Total State Special Funds	3,724,372	18.2%	4,031,258	17.6%	4,034,038	17.8%
02282 Fta Local Match	612,354	3.0%	616,367	2.7%	616,491	2.7%
02422 Highways Special Revenue	2,883,622	14.1%	3,014,300	13.2%	3,016,957	13.3%
02795 Trans Aid Special Revenue	228,396	1.1%	400,591	1.8%	400,590	1.8%
03000 Total Federal Special Funds	16,776,988	81.8%	18,830,329	82.4%	18,691,547	82.2%
03147 Fta Grants	7,758,410	37.8%	8,855,650	38.7%	8,857,081	39.0%
03407 Highway Trust - Sp Rev	5,809,160	28.3%	6,105,781	26.7%	6,111,297	26.9%
03828 Traffic Safety	3,209,418	15.7%	3,868,898	16.9%	3,723,169	16.4%
Grand Total	\$ 20,501,360	100.0%	\$ 22,861,587	100.0%	\$ 22,725,585	100.0%

The Rail, Transit, and Planning Division is funded with a combination of state and federal special revenue funds. Transit grants are based on a sliding scale, which for Montana is a federal participation rate of 86.58 percent funded with Federal Transit Administration funds. The state match is provided by the local entity receiving services or on a rare occasion with the constitutionally restricted highways state special revenue funds. The remaining division activities after deducting federal transit grants and local matching funds are funded with federal planning and research funds and state special revenue funds at a ratio of 72.9 percent federal and 27.1 percent state special revenue for the 2011 biennium. State special revenue funds include \$1,232,858 in local match pass-through authority, \$801,181 transportation aid funds, and \$6,031,257 highway restricted account funds for the 2011 biennium.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	20,501,360	20,501,360	41,002,720	89.94%
Statewide PL Adjustments	0	0	0	0.00%	398,117	421,480	819,597	1.80%
Other PL Adjustments	0	0	0	0.00%	1,094,394	1,090,766	2,185,160	4.79%
New Proposals	0	0	0	0.00%	867,716	711,979	1,579,695	3.47%
Total Budget	\$0	\$0	\$0		\$22,861,587	\$22,725,585	\$45,587,172	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					601,287					624,281
Vacancy Savings					(206,961)					(207,881)
Inflation/Deflation					3,379					4,668
Fixed Costs					412					412
Total Statewide Present Law Adjustments					\$398,117					\$421,480
DP 5001 - Training Reduction	0.00	0	(540)	0	(540)	0.00	0	(540)	0	(540)
DP 5002 - Equipment Rental	0.00	0	4,081	10,665	14,746	0.00	0	3,077	8,041	11,118
DP 5003 - OT/Differential	0.00	0	18,147	10,942	29,089	0.00	0	18,147	10,942	29,089
DP 5004 - Bus Purchases (Federal)	0.00	0	0	1,051,099	1,051,099	0.00	0	0	1,051,099	1,051,099
Total Other Present Law Adjustments	0.00	\$0	\$21,688	\$1,072,706	\$1,094,394	0.00	\$0	\$20,684	\$1,070,082	\$1,090,766
Grand Total All Present Law Adjustments					\$1,492,511					\$1,512,246

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- Market Rate
 - The Rail, Transit, and Planning Division follows the agency policy for market percent (to remain at 103 percent of the 2006 market survey or maintain internal equity within the department) with no exceptions identified
 - The statewide personal services adjustment represents salaries for the division at an estimated 96 percent of market relative to the 2008 executive branch market survey and prior to making the October 1, 2008, salary increases of HB 13 from the 2007 Legislature was 111 percent of market relative to the 2006 executive branch market survey
- Vacancy
 - The division has identified no occupational groups that pose difficulties of high turnover or difficulties in recruitment and retention
- Legislatively applied vacancy savings
 - The division used normal turnover and when vacancies occurred, held positions open in order to achieve the 4.0 percent legislatively applied vacancy savings rate

**LFD
COMMENT**

In terms of FTE-hours, the division experienced a 9 percent vacancy rate. Eliminating the impact of legislatively imposed 4 percent vacancy savings, the division under spent its personal services authority appropriated by the 2007 Legislature by 4.5 percent.

- Pay Changes
 - Pay increases given to division staff were limited primarily to the 3.0 percent fixed and 0.6 percent flexible increases funded in HB 13 of the 2007 Legislature. The 0.6 percent was given to selected individuals to achieve the agency internal equity policy
- Retirements
 - The division anticipates seven employees would be eligible for full retirement (30 years of state service or 60 years of age) in the 2011 biennium. The agency was unable to determine the 2011 biennium unfunded compensated absence liability cost if these employees retired

DP 5001 - Training Reduction - A reduction of \$1,080 state special revenue for the biennium is proposed to reduce funding for training. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 5002 - Equipment Rental - An increase of \$26,000 combined state special and federal special revenue for the biennium is requested to fund the program share of proposed increases in the Equipment Program - an internal service program exclusively serving programs of the Department of Transportation. A discussion of the equipment rental rates is contained in the proprietary discussion for the Equipment Program. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 5003 - OT/Differential - An increase of \$58,200 combined state special and federal special revenue for the biennium is requested to reestablish base year overtime and differential pay. Included in the increase is \$7,600 for benefits to fund federal payroll taxes, workers compensation and state unemployment insurance, and employer contribution to the public employee retirement system. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 5004 - Bus Purchases (Federal) - An increase of \$2.1 million federal special revenue for the biennium is requested to increase funding for grants to purchase buses for local transit entities at the level funded by the 2007 Legislature. Funding would be increased to the level of the federal formula transit funding for Montana. Delays due to a significantly increased funding in FY 2008 resulted in base funding being lower than annual planned expenditures under the federal formula transit funding for Montana.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 5005 - Rest Area Stipend										
50	0.00	0	75,000	0	75,000	0.00	0	75,000	0	75,000
DP 5006 - Highway Traffic Safety Section 408										
50	1.00	0	0	531,575	531,575	1.00	0	0	383,838	383,838
DP 5008 - State Elderly & Disabled Transit Assistance										
50	0.00	0	172,194	0	172,194	0.00	0	172,194	0	172,194
DP 5009 - TRANSCAD Software										
50	0.00	0	1,799	7,196	8,995	0.00	0	199	796	995
DP 5010 - Traffic Data Collection Support										
50	0.00	0	7,412	29,647	37,059	0.00	0	7,412	29,647	37,059
DP 5011 - Tribal Safety Coordinator										
50	1.00	0	0	0	0	1.00	0	0	0	0
DP 5012 - Weigh-In-Motion (WIM) Support										
50	0.00	0	5,912	23,648	29,560	0.00	0	5,912	23,648	29,560
DP 5013 - Accounting Adjustments										
50	0.00	0	1,333	12,000	13,333	0.00	0	1,333	12,000	13,333
Total	2.00	\$0	\$263,650	\$604,066	\$867,716	2.00	\$0	\$262,050	\$449,929	\$711,979

DP 5005 - Rest Area Stipend - An increase of \$150,000 state special revenue for the biennium is requested to fund a stipend to the city park rest area communities for minor or routine repairs on these rest areas with the understanding that the rest areas are open 24/7 during summer months. The funding is for seven city park rest areas that are beyond the original 10 years the communities had agreed to keep them open. State special revenue funding is entirely from the restricted highways state special revenue account.

**LFD
COMMENT**
City Park Rest Area Program

The City Park Rest Area Program began following a 1989 investigation to address the need for rest areas on state primary and non-interstate national highways. Legislative appropriations were approved in FY 1991 and FY 1995 to convert city parks into city park rest areas readily accessible to the traveling public. Communities receiving state funding to improve city parks to rest areas agreed to operate and maintain the facilities from April to November for at least 10 years. Under the program, city park rest areas have been established in the 13 communities of Malta, Fort Belknap, Harlowton, Twin Bridges, Plentywood, Chester, Cut Bank, Havre, Roundup, Big Sandy, Whitefish, Ennis, and Lewistown. Obligations have been fulfilled for all 13 rest areas in these communities. This request is for funding to provide stipends for all of these communities to keep their city park rest areas open full time during the summer months.

DP 5006 - Highway Traffic Safety Section 408 - An increase of \$915,400 federal special revenue for the biennium is requested to fund the addition of 1.00 FTE to provide project management oversight, team leadership, and coordination for contracted information technology (IT) architecture activities for the federally funded federal transportation safety grant program and intra-agency coordinating committee supporting the implementation of Traffic Records Strategic Plan. Included in the funding is \$750,000 unspecified operating costs to fund indirect, administrative, and training costs along with the following IT projects:

- Emergency Medical Services (EMS)/Health Information and Resource Management System (HIRMS)
- An interface with the Judicial Branch court system
- Enhancements to the Department of Justice SmartCop program

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Section 408 (23 U.S.C. Section 408 for Transportation Safety) grant monies were used during the last biennium to contract information technology (IT) services to design and establish a linked data system. To continue this program, the state still needs resources for the future implementation and management of that system. The funds support the program manager to facilitate the Traffic Records Coordinating Committee (TRCC) responsible for implementing the Traffic Records Strategic Plan.

The traffic records project is a major component of Montana's Comprehensive Highway Safety Plan that addresses improvements in timely and accurate traffic safety data collection for use by key stakeholders. Through the implementation phase, this project will eventually improve the storage, processing, and accessibility of traffic safety related data by multiple state and federal agencies. The project will add cost efficiencies related to the use and sharing of data while preventing duplication of efforts. Additionally, the program manager funded by Section 408 develops reports for the National Highway Traffic Safety Administration (NHTSA) on the progress of the Montana's traffic records program. The department will apply for additional Section 408 grant funds in FY 2009 to continue this project.

Goal: Improvements to the timely and accurate collection of traffic safety data as well as the storage, processing, and accessibility to that data by multiple state and federal agencies. This project will also improve the interoperability of the various traffic safety databases throughout the state at the state and local level.

Performance Criteria: Each key activity or sub-project within the 408 program has specific performance measures that must be met to ensure the continuance of funding each year. There are approximately 20 sub-projects under the program (please reference attachment A).

Milestones: Each sub-project within the program has multiple activities and dates (please reference attachment B).

**LFD
ISSUE****Attachments A and B**

Attachment A in the previous performance criteria and Attachment B here are 25 and 20 page documents respectively that list goals and measurements for 20 different goals associated with Section 408 activities stated with 2009 biennium funding. The legislature may want to direct the department to identify the key performance measures and milestones for the request.

FTE: 1.00 FTE would provide project management oversight and team leadership, and would coordinate contracted information technology (IT) architecture. Each project has a defined lead agency and project lead. The contracted program manager funded in this request coordinates the traffic records related projects for the agencies participating in this program

Funding: Current funding is from a grant funded by the National Highway Transportation Administration (NHTSA) from federal fiscal years 2006 through 2009. Qualified states including Montana received \$300,000 the first year, \$500,000 in 2007, and \$500,000 in 2008. Each state has to meet performance measures in accordance with the requirement of the grant based upon the Traffic Records Strategic Plan. MDT will apply for \$500,000 in federal FY 2009. Applications submitted each year to NHTSA includes information about proposed programs defining the purpose, goals, performance measures, key milestones, risks, and costs. After the 2011 biennium, this program will require approximately \$85,000 per year for personal services and \$300,000 per year for operating expenses.

Obstacles: The most significant challenge is the participation level and coordination of the members of the Traffic Records Coordinating Committee (TRCC). The TRCC is responsible for determining the traffic records related projects in support of the goals and objectives of the Section 408 grant.

Risk: The impacts for not adopting the proposal include:

- Traffic safety data will not be accurate, timely, and complete, nor readily exchanged between state and local agencies
- Traffic safety data analysis results will not be readily accessible to the Montana Highway Patrol and local law enforcement for operational decisions including placement of their law enforcement personnel to counter driving-while-intoxicated (DUI) occurrences and other critical traffic violations
- Department safety engineering and pre-construction teams, highway design groups, and maintenance crews rely on current data to assist them in developing strategies that make existing and future roadways safer for the traveling public i.e. placement of rumble strips, guardrails, curb straightening, etc.
- Existing data exchange systems with other states are severely limited and not in compliance with national standards

DP 5008 - State Elderly & Disabled Transit Assistance - An increase of nearly \$344,400 state special revenue for the biennium is requested to increase funding for operating grants for transportation services for persons 60 years of age or older and for persons with disabilities. The funding increase aligns funding with anticipated revenues from an allocation of a general fund transfer to the dedicated fund established for this purpose.

**LFD
COMMENT**
Estimated Revenues

Revenue estimates in the 2011 biennium as approved by the Revenue and Transportation Interim Committee are \$343,000 in FY 2010 and \$336,000 in FY 2011.

DP 5009 - TRANSCAD Software - An increase of nearly \$10,000 combined state and federal special revenue for the biennium is requested to increase the number of traffic modeling software licenses and the associated modeling functions in response to increased demands for traffic demand modeling in urban areas. The request is in anticipation of two new urban areas being added in Columbia Falls and Polson after the next census. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 5010 - Traffic Data Collection Support - An increase of \$74,100 combined state and federal special revenue for the biennium is requested to hire contracted temporary employees to obtain statewide traffic data. Funding would also be used to pay for travel and equipment costs for the temporary employees.

DP 5011 - Tribal Safety Coordinator - A tribal safety coordinator 1.00 FTE would be added with funding expended in the base as contracted services.

**LFD
COMMENT**
Native American Highway Fatalities

According to the department, Native Americans are overrepresented in Montana's highway fatalities. This request is intended to reverse this trend. The position funded with this request would coordinate efforts between the department and tribal partners to implement specialized programs targeted at Native American driving habits as part of the department's Comprehensive Highway Safety Plan. These programs address tribal crash data collection, payment to tribal law enforcement for equipment and overtime patrols, education about impaired driving and occupant protection, training on child occupant protection, and media development to advance a tribal safe-driving message.

DP 5012 - Weigh-In-Motion (WIM) Support - An increase of \$59,100 combined state and federal special revenue for the biennium in combined state and federal special revenue is requested to provide support for weigh-in-motion (WIM) sites installed as a part of the federal Border Enforcement Grant (BEG). Funding consists of a 20 percent state match for federal funds and would: 1) provide support for the video monitoring equipment at the sites; 2) annualize site support costs that occurred after the close of the base year due to grant timing delays; and 3) provide additional travel to remote and distant sites not represented in base funding. State special revenue funding is entirely from the restricted highways state special revenue account.

DP 5013 - Accounting Adjustments - An increase of about \$26,700 combined state and federal special revenue for the biennium is requested for: 1) a no cost accounting change that moves base expenditures from contracted services to grants expenditure category; and 2) an increase in communications of \$13,333 per year to adjust funding to compensate for an ongoing expenditure the department recorded against a one-time-only appropriation in FY 2008. State special revenue funding is entirely from the restricted highways state special revenue account.

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	137.99	137.99	141.49	143.49	137.99	143.49	5.50	3.99%
Personal Services	6,082,816	7,115,362	7,052,889	7,141,914	13,198,178	14,194,803	996,625	7.55%
Operating Expenses	3,142,130	2,916,152	4,003,067	4,149,349	6,058,282	8,152,416	2,094,134	34.57%
Equipment & Intangible Assets	70,052	107,513	223,028	209,778	177,565	432,806	255,241	143.75%
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	163,800	0	0	163,800	0	(163,800)	(100.00%)
Total Costs	\$9,294,998	\$10,302,827	\$11,278,984	\$11,501,041	\$19,597,825	\$22,780,025	\$3,182,200	16.24%
General Fund	1,065,499	1,162,620	1,635,412	1,527,884	2,228,119	3,163,296	935,177	41.97%
State Special	6,781,645	7,507,746	8,176,379	8,499,935	14,289,391	16,676,314	2,386,923	16.70%
Federal Special	1,447,854	1,632,461	1,467,193	1,473,222	3,080,315	2,940,415	(139,900)	(4.54%)
Total Funds	\$9,294,998	\$10,302,827	\$11,278,984	\$11,501,041	\$19,597,825	\$22,780,025	\$3,182,200	16.24%

Agency Description

Mission Statement: To control and eradicate animal diseases, prevent the transmission of animal diseases to humans, and to protect the livestock industry from theft and predatory animals.

The Department of Livestock is responsible for controlling and eradicating animal diseases, preventing the transmission of animal diseases to humans, protecting the livestock industry from theft and predatory animals, meat, milk and egg inspection, and regulating the milk industry relative to producer pricing. The department, which is provided for in 2-15-3101, MCA, consists of the Board of Livestock and its appointed executive officer, the Livestock Crimestoppers' Commission, the Milk Control Board, the Livestock Loss Reduction and Mitigation Board, and the Board of Horse Racing. The department is organized into four divisions: Animal Health; Centralized Services; Brand-Enforcement; Diagnostic Laboratory; and two bureaus: Milk and Egg Inspection and Meat and Poultry Inspection. The Board of Livestock, which is the statutory head of the Department of Livestock, consists of seven members appointed by the Governor and confirmed by the Senate to serve six-year terms.

Agency Highlights

Department of Livestock Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The executive budget would increase by \$3.2 million or 16 percent in the 2011 biennium from the previous biennium ◆ One-time-only proposals total \$813,000, which are mainly information technology purchases ◆ The executive is proposing a brucellosis herd management plan to regain brucellosis free status 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The executive seeks to switch animal health funds (lab revenues) with the per capita fee to address funding issues in the Diagnostic Laboratory ◆ The proposed budget contains a 110 percent increase in out of state travel ◆ The department has not set a target market for wages for employees ◆ The funding switch of per capita fees for animal health revenues still leaves the animal health fund with a negative ending fund balance ◆ The agency submitted goals were not accompanied by measureable objectives 	

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2011 Biennium Major Goals

The major goals for the department include:

- Provide multiple governments and private entities diagnostic support for the monitoring of animal health and zoonotic diseases in the State of Montana
- Aid in reducing the risks associated with rabies and other zoonotic diseases to human and animals for the protection of public health
- Ensure that all eggs, milk and milk products sold or processed in Montana are safe and wholesome and comply with standards and labels for those products
- Perform professional law enforcement and investigative work in the tracking of livestock ownership and in the deterrence and/or solution of related criminal activities

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Agency Market** - The agency's actual target market ratio was 94 percent relative to the FY 2006 market survey but is only 84 percent in FY 2008. A target market and a plan to achieve such a target market for the 2011 biennium has not been developed
- **Obstacles** – The agency identified lack of funding as the main obstacle in meeting target market ratios for the 2011 biennium

LFD ISSUE

Lack of Planning –

In order for the department to meet its stated mission, a well trained, and in some instances, highly educated workforce must be available. To recruit and retain such a workforce requires constant analysis and planning of personnel issues within the agency. This would include salary reviews in relation to the employment market and establishing a target market for the positions within the agency. At this writing, the department had not set a target market for the 2009 and 2011 biennia. Setting the target market is a key element in establishing a strategic plan on how to fund a specific pay level for the employees of the agency.

Without a formal plan, the legislature does not have the opportunity to discuss options on how to insure that the agency has a competent, well trained workforce. Since personal services are 61 percent of the agency's total biennial budget, there is not an overall plan for managing 61 percent of the agency's operating cost. The legislature may wish to consider:

- Suspending budget deliberations until a target market and plan are available
- Continuing the budget deliberations, but not approving base level personal services funding, or any present law or new proposal containing personal services costs, until a target market and plan is available

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Centralized Services Program	\$ 147,277	\$ 4,232,253	\$ -	\$ 4,379,530	19.23%
03 Diagnostic Laboratory Program	933,743	3,133,126	20,089	4,086,958	17.94%
04 Animal Health Division	660,461	1,960,498	1,618,073	4,239,032	18.61%
05 Milk & Egg Program	-	657,060	70,000	727,060	3.19%
06 Brands Enforcement Division	189,562	6,680,551	-	6,870,113	30.16%
10 Meat/Poultry Inspection	1,232,253	12,826	1,232,253	2,477,332	10.88%
Grand Total	<u>\$ 3,163,296</u>	<u>\$ 16,676,314</u>	<u>\$ 2,940,415</u>	<u>\$ 22,780,025</u>	<u>100.00%</u>

The Department of Livestock is funded with general fund, state special revenue, and federal special revenue. General fund provides support for some administrative functions, the diagnostic lab, and meat and poultry inspections. The executive budget contains a 16 percent increase in general fund from the 2009 biennium. The increase for ongoing costs is seven percent, as the executive budget contains approximately \$300,000 in one-time only requests. The one-time only requests are predominantly related to system enhancements for the animal health system (\$98,100), brand enforcement system (\$183,450), and computers for the meat inspection program (\$8,750).

State special revenue in the Department of Livestock is derived primarily from taxes and fees assessed to livestock owners and accounts for 70 percent of the total budget. The executive budget increases the state special revenue by 9 percent. The three state special revenue funds that comprised over 90 percent of state special revenues in the department are discussed below.

Federal special revenue comes from the bison operations cooperative agreement, the Greater Yellowstone Interagency Brucellosis Committee grant for contracted research, and from the U.S. Department of Agriculture in match funds for meat and poultry inspections.

Inspection and control fund

The inspection and control fund supports brand enforcement functions and derives its revenues from brand recordings, and market and local inspections.

Livestock per capita fee

The livestock per capita fund is the largest state special revenue fund and supports animal health functions, predator control, the Centralized Services Division, and a portion of the Brand Enforcement Division. Per capita revenue is derived by taxation on the ownership of livestock and interest earnings on the fund balance. The Board of Livestock annually evaluates a number of factors to determine if and how much the per capita tax rate should change. The change is limited in statute (15-24-922, MCA) to 110 percent of the average of the past three years less a reasonable non payment rate. In FY 2008, department expenditures from this fund totaled \$3.1 million. The 2011 executive budget includes approximately \$3.6 million annually.

Animal health fund

The animal health fund derives revenue from lab testing fees and milk and egg inspection fees. The diagnostic lab and the milk and egg functions are supported by this fund. The department has had challenges balancing expenditures with revenues and had to transfer funds from the livestock per capita fund to this fund at the end of FY 2007 and again in FY 2008 to cover expenses. The department anticipates an increase of approximately 10 percent to this fund over the 2011

biennium. In FY 2008, department expenditures from this fund were \$1.5 million. In the 2011 biennium the executive budget includes approximately \$1.5 million annually.

LFD COMMENT

Issues regarding the use of the per capita fee and the animal health fund are discussed in the Diagnostic Laboratory.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Statutory Appropriations Department of Livestock					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i>No Direct Bearing on Agency Operations</i>					
For the good of the horseracing industry	23-4-105	SSR	\$241,845	\$241,845	\$241,845

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	1,065,499	1,065,499	2,130,998	67.37%	9,294,998	9,294,998	18,589,996	81.61%
Statewide PL Adjustments	53,546	55,796	109,342	3.46%	786,767	774,694	1,561,461	6.85%
Other PL Adjustments	21,687	28,484	50,171	1.59%	505,751	554,318	1,060,069	4.65%
New Proposals	494,680	378,105	872,785	27.59%	691,468	877,031	1,568,499	6.89%
Total Budget	\$1,635,412	\$1,527,884	\$3,163,296		\$11,278,984	\$11,501,041	\$22,780,025	

Agency Issues

Brucellosis Action Plan

The Montana Board of Livestock approved a revised version of the state's Brucellosis Action Plan (BAP) at its November 14, 2008 meeting. The new plan is slated for implementation on January 1, 2009. The plan would require increased resources to the department and the Department of Fish, Wildlife and Parks (FWP). The funding of \$2.4 million general fund for calendar year (CY) 2009 is requested in the supplemental bill HB3. Approximately \$1.1 million of general fund and livestock per capita fees are equally split for the 2011 biennium in HB2.

The policy decision regarding the funding of the BAP is that of the legislature. A summary of the plan, issues with the plan and funding issues are provided to allow the legislature the opportunity to discuss the issues related to plan implementation.

Background

The State of Montana achieved brucellosis Class Free status in 1985. From 1985 until May 17, 2007 no cases of brucellosis were detected in Montana's livestock. In May 2007 and again in June 2008 brucellosis was detected in separate Montana cattle herds. On September 3, 2008, due to the discovery of the infected herds within a two-year period, the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services (USDA-APHIS-VS) officially downgraded Montana's brucellosis status from Class Free to Class A.

Currently the only known reservoirs of brucellosis in Montana are in the bison of Yellowstone National Park (YNP) and free-ranging elk in the Montana Greater Yellowstone Area (GYA). The BAP was developed to enhance brucellosis prevention and detection efforts in areas where interactions between livestock and brucellosis-infected or exposed elk or bison are most likely to occur and continue statewide brucellosis detection efforts.

Plan Summary

The BAP is designed as a short-term plan with the goal to achieve brucellosis Class Free status by December 31, 2009. The BAP defines two areas for plan implementation. Area 1 is the special focus area that encompasses Carbon, Stillwater, Sweetgrass, Park, Gallatin, Madison and Beaverhead counties. Area 2 encompasses the areas within the state where GYA elk are not known to range and where positive elk have not been detected, essentially the remainder of the state.

The BAP actions are specific to each area. Some actions are considered best practices while others are required. In Area One those actions include:

- **Risk Assessments** – As a best management practice, DOL and FWP staff will work with livestock producers to develop a Brucellosis Prevention and Surveillance Herd Management Plans (Herd Plans) when requested by the producers. Those producers who choose not to conduct a risk assessment are subject to all Area 1 requirements
- **Testing** – There are five testing requirements
 - Entire herd testing - required for sexually intact cattle or domestic bison 12 months of age and older that may interact or share landscape with brucellosis exposed elk or bison
 - Movement testing – required testing of sexually intact cattle or domestic bison 12 months of age and older that are moving from Area 1 to a location outside of the area, 30 days prior to the move and for 6 months following the recovery of the Class Free status
 - Change of ownership testing - required testing of sexually intact cattle or domestic bison 12 months of age and older that are changing ownership, 30 days prior to the sale and for 6 months following the recovery of the Class Free status
 - Aborted fetus testing - recommended as a best practice – bacteriological testing of aborted elk, bison, or cattle fetuses
 - Syndromic testing - recommended as a best practice – serological and/or bacteriological testing of cattle and domestic bison exhibiting signs consistent with brucellosis
- **Vaccination** – recommend as a best practice - for cattle and bison 18 months of age or older in herds with interaction potential in areas with brucellosis exposed elk or bison
- **Fencing of hay stacks and feed storage** – recommended as a best practice – if attractant to Greater Yellowstone Area (GYA) elk or Yellowstone National Park (YNP) bison
- **Animal traceability** – required animal ID for sexually intact cattle or domestic bison 12 months of age and older prior to sale, change of ownership, or permanent movement outside Area 1

Area 2 requirements include change of ownership testing and movement testing for animals exported from Montana. Best practice management recommendations include vaccination and animal identification.

Case discovery, if any, will lead to epidemiological investigation of which the process is dependent upon which area the disease is detected in. Any cattle testing positive in Area 2 that cannot be traced back to an Area 1 herd will result in a regional approach to determine the source of the infection.

Once Class Free status is obtained, some of the actions and strategies outlined in the plan will cease 180 days later. However, longer-term surveillance and mitigation activities will continue in areas where known brucellosis-infected or exposed elk or bison may interact or share landscape with livestock.

Personnel Requirements

The plan will be managed by existing staff, but would require two additional veterinarians, a program support and an additional lab technician. All but one of the veterinarians are requested to continue into the 2011 biennium as permanent staff of the department.

Performance Criteria

The department provided performance criteria to track progress toward the goal, including:

- Number of herd plans written
- Number of cattle tested
- Number of risk assessments completed
- Number of cattle vaccinated
- Number of tests completed in the diagnostic lab in Bozeman
- Regaining Class Free status

Risks and Obstacles

The department determined the following risks to the state if the department was unable to implement the plan. They include:

- Producers who shoulder the burden of these costs will not stay financially viable and will exit the livestock industry, or relocate their operations
- Producers may choose not to cooperate with the surveillance program, which would cause a delay in restoring the Brucellosis Class Free status and decrease the marketability of Montana's cattle
- Producers may choose not to cooperate with the risk mitigation program, which may result in additional cases of brucellosis in livestock with significant financial consequences for the State of Montana

The obstacles to successfully completing the plan include:

- The ability to complete testing done in a short timeframe
- Managing the heavy surge of lab tests within the diagnostic lab
- The challenge in controlling any movement of herds and the enforcement of procedure and protocol throughout the entire process

Funding the BAP

As stated earlier, the executive has two different funding requests to cover the cost of the plan. The supplemental appropriations bill, HB 3, requests approximately \$2.4 million of general fund based on the estimated costs of the plan associated with calendar year 2009 (January 1, 2009 through December 31, 2009). The breakdown of this request is in the HB 3 column of the following table. The bill provides the appropriation for FY 2009 (July 1, 2008 to June 30, 2009) with the ability to carry up to \$2.0 million into FY 2010 (July 1, 2009 to June 30, 2010).

The second request is for the longer term monitoring and surveillance costs. This request is located in DP 409 – Brucellosis Herd Plan in the Animal Health Division. The biennial request is for \$1.1 million equally split between general fund and the livestock per capita fee. This request would permanently fund 2.00 FTE, a veterinarian and a program support specialist. The breakdown of this request is in the “HB 2” columns of the above table.

The total funding request for plan implementation and long term monitoring and surveillance is \$3.5 million; of that \$2.9 million is general fund.

Department of Livestock Brucellosis Herd Plan Funding Requests				
	HB 3 CY 2009	HB 2 FY 2010	FY 2011	Total Request
<u>Expenditures</u>				
Personal Services	\$186,191	\$119,873	\$119,918	\$425,982
Operational Costs	54,940	14,418	15,043	84,401
Testing/Vaccines	2,134,653	285,156	570,313	2,990,122
	<u>\$2,375,784</u>	<u>\$419,447</u>	<u>\$705,274</u>	<u>\$3,500,505</u>
<u>Funding</u>				
General Fund	\$2,375,784	\$209,724	\$352,637	\$2,938,145
Livestock Per Capita	0	209,723	352,637	562,360
	<u>\$2,375,784</u>	<u>\$419,447</u>	<u>\$705,274</u>	<u>\$3,500,505</u>

LFD ISSUE

Budget needs to fit plan

The summary plan provides a general idea regarding how the department will implement strategies to regain Class Free status by December 31, 2009. The funding needs to match this plan in terms of type and timing of the funding. There are some areas of concern, including plan timeline, performance criteria, surveillance area, funding source, and other agency involvement.

Timeline

In discussions with the department it was noted that the major phases in this process are hiring staff, aggressive outreach to producers, completion of risks assessments, and actual testing. The department has not, as of this writing, released dates for these phases. If the goal is to achieve Class Free status by December 31, 2009, there should be a clear timeline of how the major phases work toward that goal.

Option:

The legislature may wish to request the department provide the timeline of his project where the noted phases start and stop and at what point in time the department would reapply for Class Free status. A second timeline of post Class Free status should be provided to indicate what activities will need to continue. These timelines could be utilized to balance the appropriation request between FY 2009 and the 2011 biennium.

Performance Criteria

This is an epidemiological surveillance plan. The performance criteria provided are clearly not the type of criteria one would see in a scientific plan. The department has to demonstrate to the USDA disease control via a surveillance plan. The legislature may wish to examine the criteria to be provided to the USDA to demonstrate success. If the plan does not have those criteria, the USDA most likely will not grant the Class Free status back to Montana.

Surveillance Area

The plan document provides for a surveillance area of seven counties where GYA elk may roam. The budget was developed on a surveillance area of portions of five particular counties where exposed elk are known to be. The budget was not adjusted when the surveillance area was enlarged.

Option: The legislature may wish to request that the department verify that the budget is adequate for the larger surveillance area or if additional resources may be required to assure successful plan implementation.

Fund Sources

The executive is requesting general fund to fund the plan. The general fund would act as a subsidy to producers in order to implement the BAP. Without the BAP the producer will continue to cover the cost of required testing for exporting cattle out of Montana. Once Class Free is obtained, the executive assumes the public policy of 50 percent general fund

and 50 percent from producers via the per capita fee. The per capita fee is predominately paid on cattle, however, horses, sheep, swine, and poultry are also charged this fee.

The department currently receives some federal funds related to bison control to aid in brucellosis control. The proposal indicates that federal funds are not currently available, but if some should be received, they would offset general fund.

Options: The legislature may wish to consider:

- If there is a public benefit to utilize general fund as the predominant funding source of the plan
- If the per capita fee is appropriate given that it is collected on a wide variety of species
- Clarifying in HB 3 and HB 2 that any federal funding received for the plan would subsequently reduce the general fund appropriation and direct the department to aggressively pursue all potential federal funds

Other agency resources

The plan document details participation by the Department of Fish, Wildlife, and Parks including:

- Providing personnel to haze/assist in hazing of elk in close proximity to cattle feeding/calving areas
- Providing personnel and game-proof fencing materials for fencing haystacks/feed storage areas/cattle feeding areas
- Providing personnel or other resources for mitigation efforts to ensure separation between elk and cattle, or elk and cattle feeding/calving areas

These are clearly labor intensive activities. The Wildlife Division of FWP does not currently have the budget authority to support this level of activity. The supplemental request is for the Department of Livestock only. The executive does not request additional funding for this purpose in HB 3 or in the executive request. It is also important to note that even if the Wildlife Division decided to pick up these responsibilities within its current operating budget, the source of the funding would raise issues. The activities requested are designed to protect the cattle from the elk. They do not address improving elk health or elk habitat. For this reason license fees and federal revenues related to license fees are not an appropriate funding source for this activity. The legislature may wish to discuss with FWP how they intend to provide these additional services within its current operating budget.

LFD ISSUE

Plan oversight

The implementation and subsequent follow up of this plan will require oversight. The Animal Health Officer within the Department will serve as the lead, and the Board of livestock will also provide oversight. The legislature will not have a role in the oversight of this issue once the appropriation authority has been provided. Therefore, if plan implementation does not go well, or more cases of brucellosis are found, notification to the legislature will not automatically occur. The legislature may wish to request interim oversight of plan implementation and results by the Economics Affairs Interim Committee. This committee has interim oversight authority of the Department of Livestock.

Large increases in out-of-state travel

The Board of Livestock establishes priorities for the agency. One such priority is the representation of Montana at out-of-state meetings and conferences. The executive budget includes significant increases in out-of-state travel for the next biennium. Figure A summarizes the increases. In comparing FY 2008 actual expenditures with the FY 2010 executive request, out-of-state travel costs are expected to increase by 110 percent. FY 2011 shows a 113 percent increase from the base year due to increased travel for the milk and egg program.

Figure A
Department of Livestock
Out of State Travel Requests

Division:	FY 2008 Actual	FY 2010 Requested	FY 2011 Requested
Centralized Services Division			
IT Staff	\$0	\$3,000	\$0
Executive Director	8,279	11,300	11,300
Diagnostic Lab	2,483	6,937	6,937
Animal Health	6,712	8,586	8,586
Milk & Egg Program	1,579	3,760	7,520
Brand Enforcement	2,507	9,454	9,454
Meat & Poultry Inspection	790	3,937	3,937
Total Travel Requests	<u>\$22,350</u>	<u>\$46,974</u>	<u>\$47,734</u>
Percent Change		110%	113%

**LFD
ISSUE**

Out-of State Travel -The legislature may wish to inquire about the nature and scope of this travel, specifically the benefits derived by the state from this activity. There is further discussion within each division where significant budget increases are requested.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	20.78	20.78	20.78	20.78	20.78	20.78	0.00	0.00%
Personal Services	936,040	1,274,933	1,110,197	1,112,746	2,210,973	2,222,943	11,970	0.54%
Operating Expenses	1,027,685	1,030,640	1,104,567	1,052,020	2,058,325	2,156,587	98,262	4.77%
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	163,800	0	0	163,800	0	(163,800)	(100.00%)
Total Costs	\$1,963,725	\$2,469,373	\$2,214,764	\$2,164,766	\$4,433,098	\$4,379,530	(\$53,568)	(1.21%)
General Fund	54,181	82,215	73,755	73,522	136,396	147,277	10,881	7.98%
State Special	1,909,544	2,387,158	2,141,009	2,091,244	4,296,702	4,232,253	(64,449)	(1.50%)
Total Funds	\$1,963,725	\$2,469,373	\$2,214,764	\$2,164,766	\$4,433,098	\$4,379,530	(\$53,568)	(1.21%)

Program Description

The Centralized Services Division is responsible for budgeting, accounting, payroll, personnel, legal services, purchasing, administrative, information technology, public information and general services functions for the department. The Predator Control Program is administered by the Board of Livestock and the Executive Officer. The Milk Control Bureau staff and the Livestock Loss Reduction Mitigation Board (LLRMB) staff are supervised in the Central Services Division. The Board of Milk Control, the Livestock Loss Reimbursement Mitigation Board, and the Board of Horse Racing are attached to the Department of Livestock for administrative purposes.

Program Highlights

Centralized Services Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The biennial budget would increase general fund by eight percent if the executive proposals were adopted ◆ The executive increases out-of-state travel for the executive director by 36 percent ◆ To address litigation issues in the Milk Bureau, the executive adds \$45,300 over the biennium ◆ Goals submitted related to service to the rest of the agency and administratively attached boards 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Some of the litigation in the Milk Bureau has been temporarily suspended given a temporary agreement ◆ The goals could be simplified and the objectives are not measurable 	

Program Narrative*2009 Monitored Goals and Objectives*

No goals were monitored in the 2009 biennium.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The major goal and subsequent objectives of the division are:

Goal

To provide efficient and accurate budgeting, accounting, payroll, personnel, risk management, public information, purchasing, data processing, general services, milk pricing and auditing, livestock loss reduction and mitigation and administrative functions for the department and the livestock industry.

Objectives

- The executive officer and board will evaluate the quality of budget information based upon observation at board and legislative meetings
- Audit findings will be immediately addressed with the goal of not repeating
- Turnover problems are mitigated and held to a minimum
- Federal funding is achieved and procedures are met to ensure continued funding
- Public information is timely and accurate and approved by the executive officer
- Quarterly and final financial reports are complete and timely
- Fiscal information is concise and understandable
- Resolve information technology software problems in a timely manner; successfully migrate from old software systems to oracle
- Boards are presented with quality data, professionalism, neutrality, and sensitivity to issue

**LFD
ISSUE**

Goal could be simplified

The role of the Centralized Services Division is to provide support functions to the rest of the department and to the boards that are administratively attached to the department. The goal could be restated as: The goal of the division is to provide efficient, accurate and timely support to the divisions within the department, and the administratively attached boards.

Objectives are not measurable

The progress toward the goal is evaluated through measureable objectives. Objectives should be specific, measureable, accountable, reportable, and time bound. The objectives above are statements of work. The objectives do not tell the reader what to anticipate and how the data will be evaluated. The legislature could consider these objectives:

- Annual employee turnover will be less than 10 percent as calculated by the department's personnel office
- Audit findings will be reviewed and a plan of correction implemented ten working days after the release of the audit

The legislature may wish to discuss with the division appropriately written objectives to the goal.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table							
Centralized Services Program							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000	Total General Fund	\$ 54,181	2.8%	\$ 73,755	3.3%	\$ 73,522	3.4%
	01100 General Fund	54,181	2.8%	73,755	3.3%	73,522	3.4%
02000	Total State Special Funds	1,909,544	97.2%	2,141,009	96.7%	2,091,244	96.6%
	02029 Board Of Horse Racing	158,103	8.1%	219,417	9.9%	219,716	10.1%
	02426 Lvstk Per Capita	1,516,665	77.2%	1,657,014	74.8%	1,606,362	74.2%
	02817 Milk Control Bureau	234,776	12.0%	264,578	11.9%	265,166	12.2%
Grand	Total	\$ 1,963,725	100.0%	\$ 2,214,764	100.0%	\$ 2,164,766	100.0%

The division is funded from the livestock per capita fund, the Milk Control Bureau fund, and the Board of Horse Racing fund. The livestock per capita fund, an annual tax on livestock headcount, funds all activities of the division, except for the administratively attached boards. The division collects indirect cost reimbursements on federal and state special revenues expended in other divisions. These reimbursements are deposited to the livestock per capita fund. The Milk Control Bureau and the Board of Horse Racing are funded from fees assessed to the respective industries.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	54,181	54,181	108,362	73.58%	1,963,725	1,963,725	3,927,450	89.68%
Statewide PL Adjustments	17,594	17,505	35,099	23.83%	193,875	156,001	349,876	7.99%
Other PL Adjustments	900	900	1,800	1.22%	45,429	33,929	79,358	1.81%
New Proposals	1,080	936	2,016	1.37%	11,735	11,111	22,846	0.52%
Total Budget	\$73,755	\$73,522	\$147,277		\$2,214,764	\$2,164,766	\$4,379,530	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----					-----Fiscal 2011-----					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				213,696					216,353	
Vacancy Savings				(45,989)					(46,097)	
Inflation/Deflation				2,091					2,627	
Fixed Costs				24,077					(16,882)	
Total Statewide Present Law Adjustments				\$193,875					\$156,001	
DP 101 - Department P.C. Replacements	0.00	0	9,177	0	9,177	0.00	0	9,177	0	9,177
DP 102 - I.T. Staff Training - OTO	0.00	0	11,500	0	11,500	0.00	0	0	0	0
DP 103 - Board of Livestock Per Diem	0.00	0	3,950	0	3,950	0.00	0	3,950	0	3,950
DP 104 - Out of State Travel Ex. Officer	0.00	0	3,021	0	3,021	0.00	0	3,021	0	3,021
DP 105 - Board of Horse Racing Per Diem	0.00	0	900	0	900	0.00	0	900	0	900
DP 106 - Milk Control Board Per Diem	0.00	0	700	0	700	0.00	0	700	0	700
DP 107 - Milk Control Board Contract Attorney	0.00	0	22,650	0	22,650	0.00	0	22,650	0	22,650
DP 108 - Predator Control - Base Adjustment	0.00	0	(7,369)	0	(7,369)	0.00	0	(7,369)	0	(7,369)
DP 109 - Per Diem-Livestock Loss Reduction Mitigation Board	0.00	900	0	0	900	0.00	900	0	0	900
Total Other Present Law Adjustments	0.00	\$900	\$44,529	\$0	\$45,429	0.00	\$900	\$33,029	\$0	\$33,929
Grand Total All Present Law Adjustments				\$239,304					\$189,930	

Personal Services

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate**-- The statewide personal services adjustment represents salaries for this program at 87 percent of market relative to the 2008 executive branch market survey
- **Vacancy**-- The implementation of broadband funds has assisted in retaining information technology staff
- **Legislatively applied vacancy savings**-- The division used normal staff turnover and a reduction in hours to manage to the 4.0 percent legislatively applied vacancy savings rate. Eliminating the impact of vacancy spending the division under spent its personal services authority by 21 percent
- **Pay Changes**--Funds were not transferred from other budgeted expenditure categories. Market adjustments to align division staff pay to the agency market policy of 80 percent resulted in average hourly pay raises increasing by a little over four times the amount of the 3.0 percent HB 13 salary adjustments. A strategic pay adjustment was provided for retention purposes resulting in an hourly pay raise significantly greater than the amount of the 3.0 percent HB 13 salary adjustments
- **Retirements**-- The division anticipates six employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$70,000 in unfunded compensated absence liability

DP 101 - Department P.C. Replacements - The executive is requesting an increase in state special revenue to allow the department to meet the recommendation to replace computers every four years.

DP 102 - I.T. Staff Training - OTO - The executive is requesting an increase in out-of state travel and training for information technology staff in order to develop and maintain Oracle applications and Novell training to maintain the department's LAN security. The request is based on sending two FTEs to Oracle training and one to Novell training.

**LFD
COMMENT**

Not budgeted as Travel – This decision package is budgeted as education and training costs, rather than the appropriate travel categories. If the legislature is to approve, and potentially continue, funding out-of-state travel for training it should be budgeted as such for tracking and comparative purposes. The legislature may wish to direct the agency to establish the budget categories correctly, which would be \$8,500 for education and training, \$3,000 for travel.

DP 103 - Board of Livestock Per Diem - Board per diem expenditures are zero-based and must be restored each biennium. The executive seeks restoration of this funding to support functions of the board.

DP 104 - Out of State Travel Ex. Officer - The executive is requesting an increase in the travel budget for the Executive Officer to represent the board at key national and other industry meetings. This package increases the base budget for out of state travel from \$8,300 to approximately \$11,300. This would provide for approximately six out-of-state trips per year.

**LFD
COMMENT**

This decision package represents a 36 percent increase in out-of state travel.

DP 105 - Board of Horse Racing Per Diem - Board per diem expenditures are zero-based and must be restored each biennium. The executive seeks restoration of this funding to support functions of the board.

DP 106 - Milk Control Board Per Diem - Board per diem expenditures are zero-based and must be restored each biennium. The executive seeks restoration of this funding to support functions of the board.

DP 107 - Milk Control Board Contract Attorney – The executive is requesting an increase in contract legal services for the purpose of defending pending legal actions regarding milk activities. This request of \$22,650 per year raises the base to \$35,000.

**LFD
ISSUE****Growth in Contract Services**

This decision package would increase the base budget for contracted services by 184 percent. Historically, contract services have cost \$3,925 per fiscal year, with FY 2008 being the highest at \$12,350. The state of the above mentioned legal actions should be addressed prior to legislative deliberations to determine if an on-going appropriation is necessary.

As of this writing, one such case as been postponed. The agency released a statement on September 25, 2008, that the department and Core-Mark International reached a temporary agreement that postponed the litigation over the state's 12-day labeling requirement. Core-Mark and others had previously received a waiver allowing milk to be dual dated with both a 12-day sell by and a 21-day use by date in order for the product to be sold in both Montana and Washington State. The Milk Control Board rescinded the waiver, causing Core-Mark to file suit.

Since the litigation is on hold, the legislature should receive an update on this suit, and any others, to determine if this on-going appropriation is necessary. Other options for consideration include:

- Reduce the amount to a level equal to the annual utilization of contract services
- Restrict the appropriation to one-time-only

DP 108 - Predator Control - Base Adjustment - The executive is requesting a base reduction of \$7,369 each year of the biennium to the Predator Control program to align the budget with the board approved amount of \$319,500 per year.

DP 109 - Per Diem-Livestock Loss Reduction Mitigation Board - Board per diem expenditures are zero-based and must be restored each biennium. The executive seeks restoration of this funding to support functions of the board.

New Proposals

New Proposals										
Program	FTE	-----Fiscal 2010-----				-----Fiscal 2011-----				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 110 - Database Hosting										
01	0.00	0	7,040	0	7,040	0.00	0	7,040	0	7,040
DP 6101 - Fixed Cost Workers Comp Management Program Allocat										
01	0.00	1,080	3,615	0	4,695	0.00	936	3,135	0	4,071
Total	0.00	\$1,080	\$10,655	\$0	\$11,735	0.00	\$936	\$10,175	\$0	\$11,111

DP 110 - Database Hosting - The executive is requesting state special revenue authority to cover the cost of database hosting by the Information Technology Services Division of the Department of Administration for the brand and animal health permitting systems.

DP 6101 - Fixed Cost Workers Comp Management Program Allocat - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	20.50	20.50	22.00	22.00	20.50	22.00	1.50	7.32%
Personal Services	1,025,686	1,131,127	1,180,560	1,182,660	2,156,813	2,363,220	206,407	9.57%
Operating Expenses	632,443	507,363	814,761	882,521	1,139,806	1,697,282	557,476	48.91%
Equipment & Intangible Assets	6,603	0	19,853	6,603	6,603	26,456	19,853	300.67%
Total Costs	\$1,664,732	\$1,638,490	\$2,015,174	\$2,071,784	\$3,303,222	\$4,086,958	\$783,736	23.73%
General Fund	446,155	455,938	463,488	470,255	902,093	933,743	31,650	3.51%
State Special	1,208,526	1,169,150	1,541,641	1,591,485	2,377,676	3,133,126	755,450	31.77%
Federal Special	10,051	13,402	10,045	10,044	23,453	20,089	(3,364)	(14.34%)
Total Funds	\$1,664,732	\$1,638,490	\$2,015,174	\$2,071,784	\$3,303,222	\$4,086,958	\$783,736	23.73%

Program Description

The Diagnostic Laboratory provides livestock laboratory diagnostic support for livestock producers and the Animal Health and Milk and Egg program. Testing is done for zoonotic diseases and on dairy products to protect the health of Montana citizens. Laboratory testing services are conducted upon request to assist animal owners, veterinarians, the Department of Fish, Wildlife and Parks, and other agencies in protecting the health of animals, wildlife, and the public.

Program Highlights

Diagnostic Laboratory Program	
Major Budget Highlights	
♦	The executive proposes to switch animal health funds with per capita fees to stabilize lab funding
♦	The budget contains \$25,500 in one-time-only funding to address equipment and storage needs at the lab
Major LFD Issues	
♦	The funding switch from animal health fees to per capita fees in the diagnostic lab represents a major policy change
♦	The funding switch does not eliminate a negative ending fund balance in the animal health fund
♦	The goals and objectives submitted do not allow for future review

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- Continue to fulfill our defined statutory mission (81-2-102(b) and (c)) and continue to provide rapid, accurate, and repeatable test results for all the Laboratory users
- Maintain accreditation status from the Laboratory's accreditation bodies. These reviews provide outside audits that verifies the laboratory testing credibility and competence
- Continue to provide the services and tests desired and needed by the laboratory users

The agency reported the following;

- The American Association of Veterinary Laboratory Diagnosticians (AAVLD) five year accreditation was completed in October 2007. Other reviews are the U.S Department of Agriculture (USDA) on an annual basis and the US Food and Drug Administration (FDA) every three years. The FDA review was to occur in calendar year 2008 or 2009
- A survey of laboratory users was scheduled to be conducted by the end of the 2009 biennium.

LFD COMMENT

The legislature may wish to receive an update on the FDA review and the status of the survey of laboratory users.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The division submitted one goal with corresponding objectives:

- Provide to multiple government and private entities, diagnostic support for the monitoring of animal health and zoonotic diseases in the State of Montana
 - Address funding issues in conjunction with the Board of Livestock
 - Continue to provide the diagnostic services demanded of our clientele. These services must be accurate, timely and cost efficient. The quality system will be monitored and reviewed and followed.
 - Maintain accreditation status from AAVLD, USDA and FDA
 - Maintain and foster established relationships with federal, state and local agencies such as USDA Animal and Plant Health Inspection Service, Montana Fish, Wildlife and Parks, Montana Department of Public Health and Human Services, AAVLD and National Animal Health Laboratory Network, county health departments, veterinarians and producer groups

LFD ISSUE

Objectives are not measurable

The progress toward the goal is evaluated with measurable objectives. Objectives should be specific, measurable, accountable, reportable and time bound. The above objectives are statements of work that need to be completed. The legislature may wish to discuss with the division appropriately written objectives.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Diagnostic Laboratory Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 446,155	26.8%	\$ 463,488	23.0%	\$ 470,255	22.7%
01100 General Fund	446,155	26.8%	463,488	23.0%	470,255	22.7%
02000 Total State Special Funds	1,208,526	72.6%	1,541,641	76.5%	1,591,485	76.8%
02426 Lvstck Per Capita	55,457	3.3%	423,227	21.0%	486,371	23.5%
02427 Animal Health	1,153,069	69.3%	1,118,414	55.5%	1,105,114	53.3%
03000 Total Federal Special Funds	10,051	0.6%	10,045	0.5%	10,044	0.5%
03427 Bison Trap Funds	10,051	0.6%	10,045	0.5%	10,044	0.5%
Grand Total	<u>\$1,664,732</u>	100.0%	<u>\$2,015,174</u>	100.0%	<u>\$2,071,784</u>	100.0%

The Diagnostic Laboratory (lab) is supported with general fund, animal health fees, per capita fees, and a small portion of federal funds. During the FY 2008 base year, the lab received a non-budgeted transfer of funds from the per capita

fund due to lower than anticipated revenue from lab fees. The executive proposal includes a funding switch in the lab from the animal health fund to the per capita fund of \$327,888 in FY 2010 and \$417,552 in FY 2011.

The Diagnostic Lab, lab charges and the per capita fee

The Diagnostic Laboratory (lab) is located on the Montana State University campus in Bozeman. The lab provides fee-for-service testing to veterinarians, livestock producers, as well as public health and wildlife agencies. How the lab is funded is policy that is made by the legislature. For the 2011 biennium, the executive is requesting a funding shift in the lab by increasing per capita fee authority and decreasing animal health authority. The legislature may wish to consider the impact of the proposed funding switch as well as evaluate other options.

LFD ISSUE

Proposed funding switch is insufficient

Currently, the lab is funded with fees generated from testing (animal health fund), general fund, and per capita fees (taxes on the ownership of livestock). However, the lab has not been successful in generating fees to cover increased lab costs, creating a shortfall. The options to address the shortfall have been to increase lab fees, increase general fund support, or increase per capita support of the lab. The 2007 Legislature opted to recognize the public health benefits of the lab for all Montanans and reduce the per capita fee support proposed by the Governor and increase general fund authority. However, in FY 2008 lab revenues were not realized as projected and the shortfall was covered with a non-budgeted transfer of per capita fees. The executive has requested a funding switch that would essentially undo the reduction of per capita fees made by the 2007 legislature.

The status of the two funds without the impact of the proposed funding switch is illustrated in Figure A. The animal health fund receives the majority of its revenue from fees on inspections and laboratory testing. The revenue from fees is directly related to the economic vitality of the livestock industry. For example, if fewer cattle are shipped to market, fewer inspection fees are collected. As a result, revenues can fluctuate from year to year, making estimates difficult. The budget revenues for the animal health fund were adjusted to represent a nominal increase of three percent per year.

Figure A
Department of Livestock

Condition of Animal Health Fund and Per Capita Fund without proposed transfer

Item	Animal Health Fund		Per Capita	
	FY 2010	FY 2011	FY 2010	FY 2011 Exec
	Exec Budget	Exec Budget	Exec Budget	Budget
Beginning Fund Balance	(\$224,543)	(\$522,843)	\$2,764,652	\$3,234,986
Adjustment to Fund Balance				
<u>Revenue</u>				
Fees, Licenses, Taxes	1,378,995	1,420,365	4,051,731	4,221,622
Transfers	0	0	80,000	80,000
Other	45,550	47,250	60,000	60,000
Total Revenue	1,424,545	1,467,615	4,191,731	4,361,622
<u>Expenditures by Program</u>				
Centralized Services	0	0	1,657,014	1,606,362
Diagnostic Lab	1,390,384	1,477,356	81,957	55,457
Animal Health	0	0	874,683	1,019,566
Milk & Egg	325,986	331,074	0	0
Meat & Poultry Inspection	6,475	6,475	0	0
Brands Enforcement	0	0	1,107,743	1,107,743
Total Expenditures	1,722,845	1,814,905	3,721,397	3,789,128
Ending Fund Balance	(\$522,843)	(\$870,133)	\$3,234,986	\$3,807,480

The per capita fund receives its revenues from the tax levied on the ownership of cattle, horses, mules, sheep, swine, goats, poultry, bees, llamas, alpacas, bison, domestic ungulates, and ratites (rheas, emus). The Board of Livestock sets the tax rate, but is limited in statute on the amount the fee can be raised. As per 15-24-922 (2), MCA, the fee cannot be increased more than 10 percent of the revenues collected over the past three fiscal years, less a percentage of non collection. Due to this restriction, the revenue estimates provided by the department were adjusted by the LFD in the table to meet statutory restrictions.

Without the funding switch, the animal health fund is projected to have a negative ending fund balance at the end of FY 2010 and FY 2011. The per capita account will have a positive ending fund balance in both years.

Figure B shows the impact to both funds of the funding switch proposed in the executive budget. The animal health fund ending fund balance is mitigated somewhat, but a negative ending balance remains. The deficit will increase if any part of a proposed pay plan is funded from this account. The impact on the per capita fee is minimal as the balance remains healthy and the fund continues to be structurally balanced.

Figure B Department of Livestock Impact of Proposed Fund Switch				
	<u>Animal Health Fund</u>		<u>Per Capita</u>	
	FY 2010 Exec Budget	FY 2011 Exec Budget	FY 2010 Exec Budget	FY 2011 Exec Budget
Preliminary Fund Balance	(\$522,843)	(\$870,133)	\$3,672,233	\$4,824,865
Funding Switch	<u>327,888</u>	<u>417,522</u>	<u>(327,888)</u>	<u>(417,522)</u>
Ending Fund Balance	<u>(\$194,955)</u>	<u>(\$452,611)</u>	<u>\$3,344,345</u>	<u>\$4,407,343</u>

If the legislature agrees with this option, the funding shift should be adjusted to cover the entire deficit in the animal health fund. Figure C provides the ending fund balances for both the animal health fund and the per capita fee fund under this option.

Figure C Department of Livestock Potential Fund Switch				
	<u>Animal Health Fund</u>		<u>Per Capita</u>	
	FY 2010 Exec Budget	FY 2011 Exec Budget	FY 2010 Exec Budget	FY 2011 Exec Budget
Preliminary Fund Balance	(\$522,843)	(\$870,133)	\$3,672,233	\$4,824,865
Funding Switch	<u>522,843</u>	<u>870,133</u>	<u>(522,843)</u>	<u>(870,133)</u>
Ending Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$3,149,390</u>	<u>\$3,954,732</u>

**LFD
ISSUE****Funding Formula**

During the base year, FY 2008, the lab was funded at 27 percent general fund, 3 percent per capita fees and, 69 percent animal health fund with federal funds for the remainder. If a funding switch occurs, the per capita support of the lab increases to 21 percent in FY 2010 and 23 percent in FY 2011. Subsequently, dependence on the animal health fund is reduced to 55 percent in FY 2010 and 53 percent in FY 2011.

The funding matrix for the diagnostic lab is a policy decision of the legislature. The legislature may wish to establish a funding formula in statute that would provide long term direction regarding funding of the lab. The formula could be established to address public health benefits, actual testing costs, and infrastructure costs. Those costs could then be covered with general fund, animal health, and per capita fees.

For example, if the total benefit to the public represents 25 percent of the lab's work, then general fund would support 25 percent of the costs. The remaining costs would be established based on how much the producers should be paying when lab services are utilized via lab fees, and how much all producers should pay to have the lab available. If the legislature thought that the producers should pay equally to use the lab and to have the lab available, then the remaining 75 percent of the lab's budget would be split equally between the animal health fund and per capita fees. The executive requested budget is closer to 25 percent general fund, 22 percent per capita fees, and 53 percent animal health fees. The following table demonstrates the change in the funding between the executive proposal and a funding split of 25 percent general fund and 37.5 percent each from the animal health and per capita funds.

Figure D Department of Livestock Impact of Formula Based funding for the Diagnostic Lab				
Funding	Adj Base FY2008	FY2010 Executive	FY 2010 Formula	Difference
General Fund	\$448,254	\$450,353	\$457,883	\$7,530
Livestock Per Capita	68,707	409,845	687,740	277,895
Animal Health	<u>1,135,218</u>	<u>971,332</u>	<u>687,740</u>	<u>(283,592)</u>
	<u>1,652,179</u>	<u>1,831,530</u>	<u>1,833,362</u>	<u>\$1,832</u>

The proposed split would require additional per capita fees in the amount of \$277,895 per year, but would reduce the impact on the animal health fund by \$283,592.

Option:

- Fund the lab with a statutory funding formula. This option would require a committee bill
- Do not establish a formula in statute, but establish a funding formula that reflects legislative policy
 - Fund at the executive level except adjust it to leave the animal health with a positive fund balance
 - Establish some other formula that reflects policy on how much of the lab is an overall public benefit, and its value of producers having the lab available

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	446,155	446,155	892,310	95.56%	1,664,732	1,664,732	3,329,464	81.47%
Statewide PL Adjustments	1,808	1,772	3,580	0.38%	84,698	87,466	172,164	4.21%
Other PL Adjustments	2,099	8,896	10,995	1.18%	175,293	246,600	421,893	10.32%
New Proposals	13,426	13,432	26,858	2.88%	90,451	72,986	163,437	4.00%
Total Budget	\$463,488	\$470,255	\$933,743		\$2,015,174	\$2,071,784	\$4,086,958	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					126,271					128,421
Vacancy Savings					(46,078)					(46,163)
Inflation/Deflation					3,635					3,943
Fixed Costs					870					1,265
Total Statewide Present Law Adjustments					\$84,698					\$87,466
DP 301 - Diagnostic Lab Increase GF										
0.00	2,099	0	0	2,099	0.00	8,896	0	0	8,896	
DP 302 - Lab Novell Server- RST/OTO										
0.00	0	13,250	0	13,250	0.00	0	0	0	0	
DP 303 - Lab Recharges										
0.00	0	4,458	0	4,458	0.00	0	8,298	0	8,298	
DP 304 - Lab Supplies										
0.00	0	131,672	0	131,672	0.00	0	214,734	0	214,734	
DP 305 - Lab Maintenance Contract										
0.00	0	5,488	0	5,488	0.00	0	8,488	0	8,488	
DP 307 - Milk Lab Incubator-OTO										
0.00	0	1,442	0	1,442	0.00	0	0	0	0	
DP 308 - Storage Container-OTO										
0.00	0	3,200	0	3,200	0.00	0	0	0	0	
DP 309 - Air conditioning - Lab Server-OTO										
0.00	0	7,500	0	7,500	0.00	0	0	0	0	
DP 310 - Lab Overtime										
0.00	0	1,730	0	1,730	0.00	0	1,730	0	1,730	
DP 311 - Out of State Travel -Lab										
0.00	0	4,454	0	4,454	0.00	0	4,454	0	4,454	
Total Other Present Law Adjustments										
0.00	\$2,099	\$173,194	\$0	\$175,293	0.00	\$8,896	\$237,704	\$0	\$246,600	
Grand Total All Present Law Adjustments					\$259,991					\$334,066

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate**— The statewide personal services adjustment represents salaries for this program at 86 percent of market relative to the 2008 executive branch market survey
- **Vacancy**— The implementation of broadband has assisted in retaining critical laboratory staff

- **Legislatively applied vacancy savings--** The division was unable to use normal staff turnover and a reduction in hours to manage to the 4.0 percent legislatively applied vacancy savings rate. The division requested and received personal services contingency funding of \$21,844 from the Governor's budget office to assist with payouts associated with the termination of long-term employees
- **Pay Changes--** Funds were not transferred from other budgeted expenditure categories. Market adjustments to align division staff pay to the agency market policy of 80 percent of market resulted in average hourly pay increasing about the same as the amount of the 3.0 percent HB 13 salary adjustments
- **Retirements--** The division anticipates ten employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$121,000 in unfunded compensated absence liability
 - The division utilized personal services contingency funding to address similar liabilities in FY 2008

DP 301 - Diagnostic Lab Increase GF - The executive requests an increase in general fund support of the lab to address increasing costs related to public health and other issues. This request for \$2,099 general fund in FY 2010 and \$8,896 in FY 2011 would raise general fund support in the lab to approximately \$450,000 each year.

DP 302 - Lab Novell Server- RST/OTO - The executive is requesting a replacement server for the lab. The current server is older than recommended in state policy. This one-time-only cost of \$13,250 is funded from the per capita account.

DP 303 - Lab Recharges - The executive is requesting authority to cover the increased re-charges from Montana State University for personal services and operating expenses.

DP 304 - Lab Supplies - Essential supplies for the lab have increased an average of 17 percent from FY 2006 to FY 2008. The executive is requesting a 17 percent incremental increase from the base expenditures through FY 2011. This would increase the base budget to \$488,603 in FY2010 and \$571,665 in FY 2011. This increase is funded from the animal health fund.

DP 305 - Lab Maintenance Contract - The executive is requesting an increase to cover lab maintenance contracts. The base amount of \$36,512 would be increased to \$42,000 in FY 2010 and \$45,000 in FY 2011.

DP 307 - Milk Lab Incubator-OTO - The present milk incubator is over 15 years old. The executive is requesting the authority to replace this equipment.

DP 308 - Storage Container-OTO - Storage space within the Marsh Laboratory is limited. The executive is requesting the authority to purchase a storage container.

DP 309 - Air conditioning - Lab Server-OTO - The executive is asking for authority to replace the air condition unit in the lab's server room. The current unit does not provide sufficient cooling capacity to protect the server.

DP 310 - Lab Overtime - Peak periods at the lab require occasional overtime. The executive requests to restore lab overtime to the base level of \$1,730.

DP 311 - Out of State Travel -Lab - The executive is seeking appropriation authority to increase out-of-state travel for lab professionals by \$4,554 each year of the biennium. This decision package adjusts the base to \$6,826 each year, enough to fund five out-of-state trips.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 312 - Lab Funding Shortfall										
03	0.00	0	0	0	0	0.00	0	0	0	0
DP 313 - Lab Molecular Technologist - FTE										
03	1.00	0	46,098	0	46,098	1.00	0	46,121	0	46,121
DP 314 - Remodel PCR Area - OTO										
03	0.00	0	17,500	0	17,500	0.00	0	0	0	0
DP 315 - Brucellosis Herd Plan										
03	0.50	13,426	13,427	0	26,853	0.50	13,432	13,433	0	26,865
Total	1.50	\$13,426	\$77,025	\$0	\$90,451	1.50	\$13,432	\$59,554	\$0	\$72,986

DP 312 - Lab Funding Shortfall - The executive is requesting a funding switch for lab operations from the animal health fund to the per capita fee to resolve lab funding issues. This decision package will reduce the lab's animal health funding by \$327,888 in FY 2010 and \$417,552 in FY 2011 and increase the per capita fee funding by the same amount.

**LFD
COMMENT**

Per a future discussion see the Funding Section of this narrative.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: This proposal is needed as actual lab fees collected in FY 2008 were less than appropriated. Of the \$1,228,478 appropriated in FY 2008 only \$849,786 was realized. The Board of Livestock has raised lab fees several times during the last two biennia. The Montana Diagnostic Laboratory has the highest portion of user fees funding in the region. Compared to our neighboring states, Montana's user fees are 73 percent, North Dakota is 30 percent, South Dakota is 50 percent and Wyoming is 40 percent. The lab fees are paid by producers or their vets for specific lab tests. This over-reliance on user fees was a major cause of concern by the American Academy of Veterinary Diagnostic Laboratories, the accrediting body of the diagnostic lab.

Goal: The goal is to properly fund the lab and meet national accreditation standards. When lab fees collected are less than authorized, the department must meet the shortfall from whatever legal means possible. In the past this has been program transfers and non budgeted transfers of per capita fees. Our goal is to not have to make such transfers at fiscal year end.

Performance Criteria: A budget status report is regularly presented to the Board of Livestock. The board meets every two months. The revenue receipts are presented including lab fees and per capita fee. Expenditures are also presented and discussed.

Milestones: The new funding structure will begin July 1, 2009 if approved by the Legislature. At the end of each fiscal year we will evaluate funding budgeted and actual revenues received.

FTE: The Centralized Services Division will monitor the revenue received and account for the expenditures throughout each fiscal year. The Diagnostic Laboratory will perform all testing services that generate the revenue.

Funding: The proposal is funding neutral. Both the animal health fund and the per capita fee are state special revenue accounts. Both are revenues paid by livestock producers. The difference is that lab fees are paid directly by the producers either to their vet in the form of a bill or to the lab for test services provided. When per capita fees are used, all producers are funding the lab whether they have specific services provided or not.

Obstacles: The major challenge is the producer's ability to pay. Livestock producers face many elements out of their control. They cannot control the weather such as drought, prices, or birth rates, nor can they predict diseases or predator depredation to their herds. The board addresses the per capita fee funding each year. They have no control over the headcount experience in the state.

Risk: The risk to the department is the continual budgeting of more animal health funds than the lab can generate. This requires budgeted and non budgeted transfers of per capita fee funds to the lab. The practice of non budgeted transfers is undesirable at best and should not be continued.

**LFD
ISSUE**

Options for Funding Switch- This decision package switches out base funding for the diagnostic lab. The legislature may wish to address the negative ending fund balance in the animal account by transferring additional authority. The legislature also has the option of requesting legislation to establish lab funding policy. See program issues for more information.

DP 313 - Lab Molecular Technologist - FTE - The executive is proposing to make a modified FTE permanent. The 2007 Legislature provided one-time-only authority for this position. The position develops, validates, incorporates and performs polymerase chain reaction testing for the lab.

DP 314 - Remodel PCR Area - OTO - The executive is requesting \$17,500 in FY 2010 only to convert the lunch room at the lab into a polymerase chain reaction testing area.

DP 315 - Brucellosis Herd Plan - The executive is requesting 0.50 FTE for an additional lab molecular technologist to assist with the influx of brucellosis testing. This proposal is split equally between general fund and per capita fees.

**LFD
COMMENT**

This FTE is part of the Governor's plan to regain and maintain Montana's brucellosis free status. Please see Agency Issues section for additional information.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	14.00	14.00	16.00	16.00	14.00	16.00	2.00	14.29%
Personal Services	576,413	760,457	886,719	891,076	1,336,870	1,777,795	440,925	32.98%
Operating Expenses	778,272	690,092	1,090,339	1,276,548	1,468,364	2,366,887	898,523	61.19%
Equipment & Intangible Assets	21,175	72,225	47,175	47,175	93,400	94,350	950	1.02%
Total Costs	\$1,375,860	\$1,522,774	\$2,024,233	\$2,214,799	\$2,898,634	\$4,239,032	\$1,340,398	46.24%
General Fund	0	0	307,824	352,637	0	660,461	660,461	n/a
State Special	479,454	559,257	909,200	1,051,298	1,038,711	1,960,498	921,787	88.74%
Federal Special	896,406	963,517	807,209	810,864	1,859,923	1,618,073	(241,850)	(13.00%)
Total Funds	\$1,375,860	\$1,522,774	\$2,024,233	\$2,214,799	\$2,898,634	\$4,239,032	\$1,340,398	46.24%

Program Description

The Animal Health Division provides diagnosis, prevention, control, and eradication of animal diseases, including those in bison and alternative livestock animals. The program cooperates with the Departments of Public Health and Human Services, Fish, Wildlife and Parks, and the U.S. Department of Agriculture to protect human health from animal diseases transmissible to humans. Sanitary standards are supervised for animal concentration points, such as auction markets, and certain animal product processing facilities, such as rendering plants. The Rabies Control Unit protects public and animal health from rabies by monitoring new rabies infections, and enforcing quarantines.

Program Highlights

Animal Health	
Major Program Highlights	
♦	The executive is requesting \$1.2 million over the biennium to implement a plan to regain brucellosis disease free status
♦	The executive is requesting authority for increased support for import services
♦	One-time only general fund is being requested to replace the animal health tracking and permit system
♦	Multiple goals were submitted with the same objectives
Major LFD Issues	
♦	The request for one-time-only funding may include on-going costs
♦	The workload issue in import services needs to be clearly defined
♦	Specific objectives should be written for each goal

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- o Safeguard the health and food production capacity of the State's animals and poultry by providing for the diagnosis, prevention, control, and eradication of animal diseases; preserve the economic viability of the livestock industry; protect public health by limiting the transmission of animal diseases to man; and address other health risks

The department was able to provide some data regarding the import and quarantine activities, but was unable to verify the accuracy due to a database failure.

**LFD
COMMENT**

The executive is requesting authority to replace the failed system with a web-based application. See DP 407.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. Identified significant goals include:

- Prevention, control, and eradication of animal diseases
- Aid in reducing the risk associated with rabies and other zoonotic diseases to humans and animals for the protection of public health

The division lists objectives for all goals as the following:

- Provide 24 hours a day seven days per week customer services for import permits
- Quarantine for disease events immediately upon notification or within 48 hours of laboratory diagnosis. Quarantine illegal imports within one week of entry
- Cooperate with the Department of Health and Human Services in monitoring zoonotic diseases, educating local public health and veterinary officials in required response to positive diagnoses especially for rabies, and assist in prevention and control measure at the local and state levels

**LFD
ISSUE**

Objectives should relate to a specific goal

Objectives provided are not measurable

Each goal should have its own related set of objectives in order to evaluate progress toward the goal. Objectives should be specific, measurable, accountable, reportable, and time bound. This type of objective allows the reader to make a determination regarding what the program intends to accomplish to reach the goals. The objectives provide relate only to the day-to-day activities within the program, The legislature may wish to discuss with the division appropriately written objectives to each goal.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Animal Health Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ -	-	\$ 307,824	15.2%	\$ 352,637	15.9%
01100 General Fund	-	-	307,824	15.2%	352,637	15.9%
02000 Total State Special Funds	479,454	34.8%	909,200	44.9%	1,051,298	47.5%
02426 Lvstk Per Capita	479,454	34.8%	874,683	43.2%	1,019,566	46.0%
02427 Animal Health	-	-	34,517	1.7%	31,732	1.4%
03000 Total Federal Special Funds	896,406	65.2%	807,209	39.9%	810,864	36.6%
03427 Bison Trap Funds	896,406	65.2%	807,209	39.9%	810,864	36.6%
Grand Total	1,375,860	100.0%	2,024,233	100.0%	2,214,799	100.0%

State special revenue, primarily the livestock per capita fund, supports disease control, import/export activities, and

alternative livestock activities and is projected to increase 20 percent over the biennium. Federal funds support bison operations and the Greater Yellowstone Interagency Brucellosis Committee (GYIBC) research and cooperative efforts.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	1,375,860	1,375,860	2,751,720	64.91%
Statewide PL Adjustments	0	0	0	0.00%	202,165	207,810	409,975	9.67%
Other PL Adjustments	0	0	0	0.00%	29,276	29,276	58,552	1.38%
New Proposals	307,824	352,637	660,461	100.00%	416,932	601,853	1,018,785	24.03%
Total Budget	\$307,824	\$352,637	\$660,461		\$2,024,233	\$2,214,799	\$4,239,032	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					225,528					230,026
Vacancy Savings					(32,078)					(32,258)
Inflation/Deflation					8,481					9,699
Fixed Costs					234					343
Total Statewide Present Law Adjustments					\$202,165	\$207,810				
DP 403 - Animal Health - Vehicle Replacements - OTO	0.00	0	26,000	0	26,000	0.00	0	26,000	0	26,000
DP 405 - Animal Health - Out of State Travel	0.00	0	1,874	0	1,874	0.00	0	1,874	0	1,874
DP 406 - Animal Health - Overtime	0.00	0	1,402	0	1,402	0.00	0	1,402	0	1,402
Total Other Present Law Adjustments										
	0.00	\$0	\$29,276	\$0	\$29,276	0.00	\$0	\$29,276	\$0	\$29,276
Grand Total All Present Law Adjustments					\$231,441	\$237,086				

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate--** The statewide personal services adjustment represents salaries for this program at 92 percent of market relative to the 2008 executive branch market survey
- **Vacancy--** The division is not experiencing difficulties in recruiting or retaining staff
- **Legislatively applied vacancy savings--** The division was unable to use normal staff turnover and a reduction in hours to manage to the 4.0 percent legislatively applied vacancy savings rate. The division requested and received personal services contingency funding of \$29,498 from the Governor’s budget office to assist with payouts associated with the termination of long-term employees
- **Pay Changes--** Funds were not transferred from other budgeted expenditure categories. The division provided only the 3.0 percent HB 13 salary adjustments

- **Retirements--** The division anticipates one employee would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$17,000 in unfunded compensated absence liability

DP 403 - Animal Health - Vehicle Replacements - OTO - The executive is requesting state special revenue authority to replace two extended cab pickups for hybrid Escapes at an estimated cost of \$26,000 each. This package is funded with per capita fees.

DP 405 - Animal Health - Out of State Travel - The executive is seeking appropriation authority to increase out-of-state travel for lab professionals by \$1,874 each year of the biennium. This decision package adjusts the base to \$8,364 each year, enough to fund six out-of-state trips.

**LFD
COMMENT**

This represents a 28.8 percent increase in out-of state travel. See agency issues for further information.

DP 406 - Animal Health - Overtime - The animal health program utilizes overtime during peak workload periods. The executive requests to restore overtime to the base level of \$1,402.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 404 - Bison Federal Funds										
04	(1.00)	0	0	(135,132)	(135,132)	(1.00)	0	0	(135,153)	(135,153)
DP 407 - Animal Health System Development - OTO/Bien										
04	0.00	98,100	0	0	98,100	0.00	0	0	0	0
DP 408 - Animal Health - Administrative Support										
04	1.00	0	34,517	0	34,517	1.00	0	31,732	0	31,732
DP 409 - Brucellosis Herd Plan										
04	2.00	209,724	209,723	0	419,447	2.00	352,637	352,637	0	705,274
Total	2.00	\$307,824	\$244,240	(\$135,132)	\$416,932	2.00	\$352,637	\$384,369	(\$135,153)	\$601,853

DP 404 - Bison Federal Funds - The executive is seeking to align authority with available bison federal funds. This reduction aligns authority with the current USDA and Greater Yellowstone Brucellosis Committee contracts.

DP 407 - Animal Health System Development - OTO/Bien - The animal health tracking and permit system software is 17 years old and is running on an outdated platform. The executive seeks the authority to replace the system with an upgraded web based system. In conjunction with ITSD, the department has determined that the new system would require \$90,600 for software application and \$7,500 for installation services, training, travel, and other overhead costs to bring the system on-line. This request is for a total of \$98,100 of general fund.

**LFD
COMMENT**

One time vs. on-going costs - The procurement of the software is a one-time only expense. However, support costs such as maintenance are considered on-going costs. The legislature may wish to restrict \$90,600 as one-time only and add the remaining \$7,500 to the base for on-going costs.

DP 408 - Animal Health - Administrative Support - The executive budget includes \$30,713 in FY 2010 and \$30,728 in FY 2011 to support 1.00 FTE in the import office to provide consistent coverage of the permitting phone line during business hours.

**LFD
ISSUE**

The department contends that this position is needed to meet statutory obligations, and provide timely and accurate responses to inquiries, requests of licensure, and import applications. However, this was not demonstrated in terms of what statute requires and what is or is not being completed. If the legislature seeks to provide a resource to correct a workload issue that workload issue should be clearly defined in advance and incremental goals for program improvement should be negotiated. Without such information the legislature is not adequately informed regarding the problem that needs to be solved.

DP 409 - Brucellosis Herd Plan - The executive recommends adding 2.00 FTE and \$419,447 in FY 2010 and \$705,274 in FY 2011 of equal amounts of general fund and state special revenue to fund longer term surveillance and mitigation activities related to regaining the Class Free brucellosis status for the State of Montana. This type of surveillance is requested due to the known risk exposure in the greater Yellowstone area.

**LFD
COMMENT**

See the agency narrative for the discussion regarding the implementation and funding of the Brucellosis Action Plan.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	5.00	5.00	5.00	5.00	5.00	5.00	0.00	0.00%
Personal Services	242,554	289,078	282,215	282,937	531,632	565,152	33,520	6.31%
Operating Expenses	46,962	48,551	52,771	57,137	95,513	109,908	14,395	15.07%
Equipment & Intangible Assets	0	0	26,000	26,000	0	52,000	52,000	n/a
Total Costs	\$289,516	\$337,629	\$360,986	\$366,074	\$627,145	\$727,060	\$99,915	15.93%
State Special	271,635	302,616	325,986	331,074	574,251	657,060	82,809	14.42%
Federal Special	17,881	35,013	35,000	35,000	52,894	70,000	17,106	32.34%
Total Funds	\$289,516	\$337,629	\$360,986	\$366,074	\$627,145	\$727,060	\$99,915	15.93%

Program Description

The Milk and Egg program ensures that eggs, milk, and milk products sold or manufactured in Montana are fit for human consumption. Enforcement of state and federal laws is accomplished through licensing, sampling, laboratory testing, and product and site inspections, done in cooperation with other state and federal agencies.

Program Highlights

Milk and Egg Program Major Program Highlights	
♦	The executive recommends increases for two replacement vehicles and out-of-state travel
♦	The goal of the program addresses safe products for consumers
Major LFD Issues	
♦	Out of state travel is budgeted at a 138 percent increase in base expenditures
♦	The objectives should contain a means to measure change in performance from previous years

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee did not monitor any goals for this division.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The program listed the following goal and related objectives:

- To ensure that eggs, milk, and milk products sold or processed in Montana are safe and wholesome and comply with standards and labels for those products
 - Review completed inspection results for each type of license issued to ensure that all laws and regulations are met and any violations are documented and addressed

- Review all documentation of laboratory test reports to ensure that all non-compliance issues are addressed in accordance with all laws and regulations
- Review all employee training records and all employee evaluation appraisals to ensure a consistency in training and evaluations

**LFD
ISSUE**

Objectives provided are not measurable

The progress toward the goal is evaluated with measurable objectives. Objectives should be specific, measurable, accountable, reportable and time bound. The above are specific and accountable, but need to address the time frame of the activities and the measurement to be used to determine success. That measurement could be the comparison of data from year to year to determine if there is an increase or decrease in deficiencies.

The legislature may wish to discuss with the division appropriately written goals and objectives.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Milk & Egg Program						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 271,635	93.8%	\$ 325,986	90.3%	\$ 331,074	90.4%
02425 Inspection And Control	-	-	-	-	-	-
02427 Animal Health	271,635	93.8%	325,986	90.3%	331,074	90.4%
03000 Total Federal Special Funds	17,881	6.2%	35,000	9.7%	35,000	9.6%
03032 Animal Health Sp. Rev	17,881	6.2%	35,000	9.7%	35,000	9.6%
Grand Total	\$ 289,516	100.0%	\$ 360,986	100.0%	\$ 366,074	100.0%

State special revenue from milk industry fees is the primary funding source for this division. Federal special revenues are provided by the U.S. Department of Agriculture to conduct shell egg surveillance.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	289,516	289,516	579,032	79.64%
Statewide PL Adjustments	0	0	0	0.00%	43,289	44,617	87,906	12.09%
Other PL Adjustments	0	0	0	0.00%	28,181	31,941	60,122	8.27%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$360,986	\$366,074	\$727,060	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010						Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					51,420					52,173
Vacancy Savings					(11,759)					(11,790)
Inflation/Deflation					3,380					3,874
Fixed Costs					248					360
Total Statewide Present Law Adjustments					\$43,289					\$44,617
DP 501 - Milk & Egg Bureau Vehicle Replacement - OTO										
	0.00	0	26,000	0	26,000	0.00	0	26,000	0	26,000
DP 502 - Milk & Egg - Out of State Travel										
	0.00	0	2,181	0	2,181	0.00	0	5,941	0	5,941
Total Other Present Law Adjustments										
	0.00	\$0	\$28,181	\$0	\$28,181	0.00	\$0	\$31,941	\$0	\$31,941
Grand Total All Present Law Adjustments					\$71,470					\$76,558

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate--** The statewide personal services adjustment represents salaries for this program at 89 percent of market relative to the 2008 executive branch market survey
- **Vacancy--** The implementation of pay plan 20 has assisted in retaining staff
- **Legislatively applied vacancy savings--** Eliminating the impact of vacancy savings the division under spent its personal services authority by 10 percent
- **Pay Changes--** Funds were not transferred from other budgeted expenditure categories. Market adjustments to align division staff pay to the agency market policy of 80 percent of market resulted in average hourly pay increasing of one percent in addition to the 3.0 percent HB 13 salary adjustments
- **Retirements--** The division anticipates two employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$20,000 in unfunded compensated absence liability

DP 501 - Milk & Egg Bureau Vehicle Replacement - OTO - Milk and Egg Bureau-OTO - The executive is requesting one-time-only authority to replace two extended cab pickups for hybrid Escapes at an estimated cost of \$26,000 each.

DP 502 - Milk & Egg - Out of State Travel - The executive is seeking appropriation authority to increase out-of-state travel for the sanitarians by \$2,181 in FY 2010 and \$5,941 in FY 2011. This decision package increases the base to \$3,758 and provides \$7,520 in authority in FY2011.

LFD COMMENT

The department spent \$1,579 in out-of-state travel in the base year, so this is a 138 percent increase. The FY 2011 request represents an increase of 376 percent over the base year. See the agency issue section for more information.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 503 - Milk & Egg Funding Switch 05	0.00	0	(35,000)	35,000	0	0.00	0	(35,000)	35,000	0
Total	0.00	\$0	(\$35,000)	\$35,000	\$0	0.00	\$0	(\$35,000)	\$35,000	\$0

DP 503 - Milk & Egg Funding Switch - The milk sanitarians often inspect dairies that are also egg production operations. The federal government reimburses the bureau for its inspection of these egg operations in accordance with federal standards. These funds are used to offset state costs. The executive is requesting authority to reduce state special revenue authority and increase federal authority.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	57.21	57.21	57.21	59.21	57.21	59.21	2.00	3.50%
Personal Services	2,464,060	2,731,680	2,665,287	2,741,769	5,195,740	5,407,056	211,316	4.07%
Operating Expenses	407,009	320,804	632,246	570,811	727,813	1,203,057	475,244	65.30%
Equipment & Intangible Assets	42,274	35,288	130,000	130,000	77,562	260,000	182,438	235.22%
Total Costs	\$2,913,343	\$3,087,772	\$3,427,533	\$3,442,580	\$6,001,115	\$6,870,113	\$868,998	14.48%
General Fund	3,057	4,682	175,406	14,156	7,739	189,562	181,823	2,349.44%
State Special	2,910,286	3,083,090	3,252,127	3,428,424	5,993,376	6,680,551	687,175	11.47%
Total Funds	\$2,913,343	\$3,087,772	\$3,427,533	\$3,442,580	\$6,001,115	\$6,870,113	\$868,998	14.48%

Program Description

The Brands Enforcement Division is responsible for livestock theft investigations, stray livestock investigations, brand inspections, recording of livestock brands, filing of security interests on livestock, livestock auction licensing, livestock dealer licensing, hide inspections, and livestock inspections

Program Highlights

Brand Enforcement Major Program Highlights	
♦	The executive is requesting one-time-only funding for the ten-year brand re-record project and to replace the brand computer system
♦	The division's goal is in relation to the effectiveness of professional law enforcement activities
♦	General fund increases by over 2000 percent due to a one-time-only request for a system upgrade for the brand recording and lookup system
Major LFD Issues	
♦	The replacement of the brand computer system contains some on-going costs
♦	The objectives should contain a means to measure change in performance from previous years

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- To provide to the livestock industry with professional law enforcement and investigative work in the tracking of livestock ownership and in the deterrence and/or solution of related criminal activities.

The department was able to provide inspection counts, investigation counts and case load numbers; however inspection violations were not determinable by the current record keeping system.

**LFD
COMMENT**

The executive is requesting authority to replace the current system with a new application. The legislature may wish to inquire if the department will be able to track inspection violations in the new system. See DP 604.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The division proposes the same goal (and objectives) for the 2011 biennium as was submitted for the 2011 biennium:

- To provide to the livestock industry with professional law enforcement and investigative work in the tracking of livestock ownership and in the deterrence and/or solution of related criminal activities
 - Number of livestock inspection violations discovered compared to the number of inspection violations charged
 - Number of criminal activity complaints reported compared to the number of criminal activities complaints charged

**LFD
COMMENT**

The objectives would be stronger if the data collected was compared to similar historical data. With the comparison the division could tell if violations and criminal activities are greater, the same, or less than previous years.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Brands Enforcement Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 3,057	0.1%	\$ 175,406	5.1%	\$ 14,156	0.4%
01100 General Fund	3,057	0.1%	175,406	5.1%	14,156	0.4%
02000 Total State Special Funds	2,910,286	99.9%	3,252,127	94.9%	3,428,424	99.6%
02425 Inspection And Control	1,802,543	61.9%	2,144,657	62.6%	2,320,988	67.4%
02426 Lvstk Per Capita	1,107,743	38.0%	1,107,470	32.3%	1,107,436	32.2%
Grand Total	\$ 2,913,343	100.0%	\$ 3,427,533	100.0%	\$ 3,442,580	100.0%

The Brand Enforcement Division is funded with general fund, per capita fees, and inspection and control funds. Inspection and control funds are generated from brand recordings, and market and local inspections.

**LFD
ISSUE**

Fund is not structurally balanced

Figure A illustrates the condition of the inspection and control fund after the executive's proposed budget has been accounted for. If all proposed decision packages are approved, the fund is structurally unbalanced in FY 2010, when proposed expenditures of \$2.1 million exceed projected revenues of \$2.0 million. With large one-time-only requests in FY 2011 for brand re-recording, FY 2011 proposed expenditures exceed projected revenues. By the end of FY 2011, the estimated fund balance is a negative \$36,251. The deficit may grow if any pay plan is funded with the inspection and control fund.

Figure A
Historical and Projected Fund Analysis
Inspection & Control Fund - Montana Department of Livestock
Fiscal Years 2008 Through 2011

Item	FY 2008 Exec Budget	FY 2009 Exec Budget	FY 2010 Exec Budget	FY 2011 Exec Budget
Beginning Fund Balance	\$68,803	\$211,087	290,577	123,154
Adjustment to Fund Balance	1,983	0	0	0
<u>Revenue</u>				
Fees, Licenses, Taxes	1,856,571	1,881,716	1,887,716	2,071,600
Transfers	10,810	19,000	20,000	20,000
Other	73,604	70,000	70,000	70,000
Total Revenue	<u>\$1,940,985</u>	<u>\$1,970,716</u>	<u>\$1,977,716</u>	<u>\$2,161,600</u>
<u>Expenditures by Program</u>				
Centralized Services	\$0	\$0	\$0	\$0
Diagnostic Laboratory	0	0	0	0
Animal Health	0	0	0	0
Milk & Egg	0	0	0	0
Brands Enforcement	1,800,684	1,891,226	2,145,139	2,321,005
Meat/Poultry Inspection	0	0	0	0
Total Expenditures	<u>1,800,684</u>	<u>1,891,226</u>	<u>2,145,139</u>	<u>2,321,005</u>
Ending Fund Balance	<u>\$211,087</u>	<u>\$290,577</u>	<u>\$123,154</u>	<u>(\$36,251)</u>

The legislature may wish to address the negative ending fund balance by one or more of the following:

- Direct the department to increase inspection fees to cover increased costs
- Fund a portion of the increased costs with another source of state special revenue, such as per capita fee
- Recommend an expenditure level that does not exceed revenue estimates by reducing one-time-only costs such as vehicle purchase and fire arms

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	3,057	3,057	6,114	3.23%	2,913,343	2,913,343	5,826,686	84.81%
Statewide PL Adjustments	(1)	(1)	(2)	0.00%	151,644	162,960	314,604	4.58%
Other PL Adjustments	0	0	0	0.00%	190,196	175,196	365,392	5.32%
New Proposals	172,350	11,100	183,450	96.78%	172,350	191,081	363,431	5.29%
Total Budget	\$175,406	\$14,156	\$189,562		\$3,427,533	\$3,442,580	\$6,870,113	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					228,404					234,609
Vacancy Savings					(107,700)					(107,944)
Inflation/Deflation					28,593					32,884
Fixed Costs					2,347					3,411
Total Statewide Present Law Adjustments					\$151,644					\$162,960
DP 602 - Brands - Vehicle Replacement - OTO	0.00	0	87,726	0	87,726	0.00	0	87,726	0	87,726
DP 603 - Brands - Firearm Replacement - OTO	0.00	0	15,000	0	15,000	0.00	0	0	0	0
DP 605 - Brands - Overtime	0.00	0	80,523	0	80,523	0.00	0	80,523	0	80,523
DP 606 - Brands - Out of State Travel	0.00	0	6,947	0	6,947	0.00	0	6,947	0	6,947
Total Other Present Law Adjustments	0.00	\$0	\$190,196	\$0	\$190,196	0.00	\$0	\$175,196	\$0	\$175,196
Grand Total All Present Law Adjustments					\$341,840					\$338,156

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate**—The statewide personal services adjustment represents salaries for this program at 83 percent of market relative to the 2008 executive branch market survey
- **Vacancy**—The implementation of broadband has assisted in retaining staff. The department has begun to extend a moving allowance to attract staff
- **Legislatively applied vacancy savings**—The division was unable to use normal staff turnover and a reduction in hours to manage to the 4.0 percent legislatively applied vacancy savings rate. The division requested and received personal services contingency funding of \$65,525 from the Governor's budget office to assist with payouts associated with the termination of long-term employees

- **Pay Changes**—Funds were not transferred from other budgeted expenditure categories. Market adjustments to align division staff pay to the agency market policy of 80 percent of market resulted in average hourly pay increasing twice the amount provided by the 3.0 percent HB 13 salary adjustments
- **Retirements**—The division anticipates twenty employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$322,254 in unfunded compensated absence liability

DP 602 - Brands - Vehicle Replacement - OTO - The Brand Enforcement Division has no regional offices. Instead 22.00 FTE utilize pickups to do their work. The executive is requesting authority to replace five pick-ups each year of the biennium.

**LFD
COMMENT**

The department has base authority of \$42,373. This provides the department with approximately \$130,000 in authority each year of the biennium from the inspection and control fund.

DP 603 - Brands - Firearm Replacement - OTO - The Brand Enforcement Division has sworn law enforcement officers who have powers of arrest and carry firearms. The division has not replaced handguns since 1992. The executive is requesting one-time-only authority to replace 30 firearms. These costs are funded from inspection and control revenues.

DP 605 - Brands - Overtime - The executive budget includes the base amount of \$80,523 each year of the biennium to fund overtime costs. These costs are funded from inspection and control revenues.

DP 606 - Brands - Out of State Travel - The executive is seeking appropriation authority to increase out-of-state travel for enforcement professionals by \$6,947 each year of the biennium. This decision package adjusts the base to \$9,382 per year, enough to fund five out-of-state trips.

**LFD
ISSUE**

This decision package increases the base budget by 277 percent. See agency issues for additional information.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 601 - Brands - Ten Year Rerecord - OTO										
06	0.00	0	0	0	0	2.00	0	179,981	0	179,981
DP 604 - Brands - System Upgrade - OTO/Bien										
06	0.00	172,350	0	0	172,350	0.00	11,100	0	0	11,100
Total	0.00	\$172,350	\$0	\$0	\$172,350	2.00	\$11,100	\$179,981	\$0	\$191,081

DP 601 - Brands - Ten Year Rerecord - OTO - The Brand Enforcement Division rerecords all brands every ten years. The next scheduled recording is in FY 2011. The executive is requesting authority for 2.00 FTE and operating costs to complete the process.

The following information is provided so that the legislature can consider various performance measurement principles when examining this proposal. It is submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The Brand Enforcement Division rerecords all brands every ten years, as required per 81-3-104, MCA. This is a major funding source since the fee to rerecord is \$100 per brand. This could bring in as much as \$6 million in brand enforcement revenue.

Objective: The goal is to notify every brand owner of rerecord requirements and complete all rerecords in a timely manner. It is our goal to ensure that all brands are properly recorded for the benefit of the livestock industry. It is also our goal to have maximum participation and accountability of the initial notification and subsequent returns.

Performance Criteria: Division management will measure the project's progress by bar code tracking of how many rerecord notices are sent out as compared to recorded brands in the system. This will enable staff to identify any missing notices and to resend them, and to timely process the returned applications and resend the notices returned due to incorrect addresses.

Milestones: The rerecord notices must be returned postmarked by December 31, 2011. Two additional FTE will be hired to do this work. The first position is a lead worker and will be hired July of 2010 to begin the massive process. By January 2011 the second position will be double filled and all three workers will be heavily involved with all re-recording.

FTE: The work will be directed by the Brand Enforcement Division Administrator. Key existing staff such as the brand recorder will also manage the daily work. Because of the heavy workload demand, 2.00 FTE will be hired as referred to above.

Funding: By statute 81-3-107 MCA, revenue generated by the brand rerecord is deposited in a state special revenue fund (02425 brand enforcement revenue fund). This statute also stipulates that only ten percent of the total rerecord collected can be used by the department each year of the ten-year cycle.

Obstacles: The major challenge is to get all the notices out in a timely fashion, track the notices sent and compare them to those returned and ultimately rerecorded. Since there are so many brands to rerecord it is a challenge to carry out the process and continue to get regular division work done. It is also a challenge to ensure that our technology systems successfully function throughout the process.

Risk: The industry must have proper brand identification to track all ownership and movement of livestock. Ranchers in our industry must have proper identification to secure all brand liens vital to their operation. The rerecord process ensures continuity of business operations for all Montana producers and livestock auction markets. Animal identification is also critical to disease control and state and national security. Delayed or inefficient management of this process could result in a loss of vital revenue to the producer and the department.

DP 604 - Brands - System Upgrade - OTO/Bien - The executive recommends \$172,530 in FY 2010 and \$11,100 in FY 2011 of one-time only general fund authority to replace the Brand Enforcement Division recording and look up system. This change would allow a producer to procure a brand or look up a brand over the Internet. This proposal includes \$11,100 to lease an oracle server.

**LFD
ISSUE**

Not all one-time-only costs – The cost to lease the server is an on-going cost. The legislature may wish to consider restricting only the software and development costs to one-time only and add the lease costs to the base budget.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	20.50	20.50	20.50	20.50	20.50	20.50	0.00	0.00%
Personal Services	838,063	928,087	927,911	930,726	1,766,150	1,858,637	92,487	5.24%
Operating Expenses	249,759	318,702	308,383	310,312	568,461	618,695	50,234	8.84%
Total Costs	\$1,087,822	\$1,246,789	\$1,236,294	\$1,241,038	\$2,334,611	\$2,477,332	\$142,721	6.11%
General Fund	562,106	619,785	614,939	617,314	1,181,891	1,232,253	50,362	4.26%
State Special	2,200	6,475	6,416	6,410	8,675	12,826	4,151	47.85%
Federal Special	523,516	620,529	614,939	617,314	1,144,045	1,232,253	88,208	7.71%
Total Funds	\$1,087,822	\$1,246,789	\$1,236,294	\$1,241,038	\$2,334,611	\$2,477,332	\$142,721	6.11%

Program Description

The Meat and Poultry Inspection Program was established in 1987 by the Montana Meat and Poultry Inspection Act. It implements and enforces a meat and poultry inspection system equal to that maintained by the U.S. Department of Agriculture and the Food Safety Inspection Service to assure clean, wholesome, and properly-labeled meat and poultry products for consumers.

Program Highlights

Meat, Milk and Egg Inspection Major Program Highlights	
♦	The executive is requesting an increase in base operations due to changes in meat inspection regulations
♦	The goal of the program addresses safe products for consumers
Major LFD Issues	
♦	Out-of-state travel increases by over 400 percent
♦	The objectives should contain a means to measure change in performance from previous years

Program Narrative*2009 Monitored Goals and Objectives*

No goals were monitored in the 2009 biennium.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim. The program listed the following goal and related objectives:

- To ensure that safe, wholesome, properly labeled meat and poultry products are being offered for sale to Montana consumers
 - On an on-going basis, review completed inspection results for each type of licensed establishment to ensure that all laws and regulations are met and any deficiencies are documented and addressed

- On an on-going basis, review all documentation on reports of non-compliance issues to ensure all laws and regulations are met and any deficiencies are documented and addressed
- On an on-going basis, review all employee training records and all employee evaluation appraisals to ensure a consistency in training and evaluations

**LFD
ISSUE**

Objectives provided are not measurable

The progress towards the goal is evaluated with measurable objectives. Objectives should be specific, measurable, accountable, reportable and time bound. The above are specific and accountable, but need to address the time frame of the activities and the measurement to be used to determine success. That measurement could be the comparison of data from year to year to determine if there is an increase or decrease in deficiencies.

The legislature may wish to discuss with the division appropriately written objectives to each goal prior to taking action on the proposed budget.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Meat/Poultry Inspection						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 562,106	51.7%	\$ 614,939	49.7%	\$ 617,314	49.7%
01100 General Fund	562,106	51.7%	614,939	49.7%	617,314	49.7%
02000 Total State Special Funds	2,200	0.2%	6,416	0.5%	6,410	0.5%
02427 Animal Health	2,200	0.2%	6,416	0.5%	6,410	0.5%
03000 Total Federal Special Funds	523,516	48.1%	614,939	49.7%	617,314	49.7%
03209 Meat/Poultry Inspection Sp Rev	523,516	48.1%	614,939	49.7%	617,314	49.7%
Grand Total	<u>\$ 1,087,822</u>	100.0%	<u>\$ 1,236,294</u>	100.0%	<u>\$ 1,241,038</u>	100.0%

The majority of meat and poultry inspection program funding is split evenly between federal funds and the general fund. Per cooperative agreement with the US Department of Agriculture, state special revenue funds cannot be used as match when they are derived through a fee on producers being inspected by the program. Since the majority of state special revenue funds are generated from fees on producers being inspected, general fund is used as match. A small portion of state special revenue derived from inspection fees on facilities are used in this division.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	562,106	562,106	1,124,212	91.23%	1,087,822	1,087,822	2,175,644	87.82%
Statewide PL Adjustments	34,145	36,520	70,665	5.73%	111,096	115,840	226,936	9.16%
Other PL Adjustments	18,688	18,688	37,376	3.03%	37,376	37,376	74,752	3.02%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$614,939	\$617,314	\$1,232,253		\$1,236,294	\$1,241,038	\$2,477,332	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2010					Fiscal 2011				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				128,512					131,445
Vacancy Savings				(38,664)					(38,782)
Inflation/Deflation				21,248					23,177
Total Statewide Present Law Adjustments				\$111,096					\$115,840
DP 1001 - Meat Inspection - Computers-OTO									
0.00	8,750	0	8,750	17,500	0.00	8,750	0	8,750	17,500
DP 1002 - Meat Inspection - Lab Sampling									
0.00	1,388	0	1,388	2,776	0.00	1,388	0	1,388	2,776
DP 1003 - Meat Inspection - Out of State Travel									
0.00	1,573	0	1,574	3,147	0.00	1,573	0	1,574	3,147
DP 1004 - PHPCIS - Maintenance Contracts & Service									
0.00	6,977	0	6,976	13,953	0.00	6,977	0	6,976	13,953
Total Other Present Law Adjustments									
0.00	\$18,688	\$0	\$18,688	\$37,376	0.00	\$18,688	\$0	\$18,688	\$37,376
Grand Total All Present Law Adjustments				\$148,472					\$153,216

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate**—The statewide personal services adjustment represents salaries for this program at 86 percent of market relative to the 2008 executive branch market survey
- **Vacancy**—The implementation of pay plan 20 has assisted in retaining staff
- **Legislatively applied vacancy savings**—The division was unable to use normal staff turnover and a reduction in hours to manage to the 4.0 percent legislatively applied vacancy savings rate. The division requested and received personal services contingency funding of \$24,123 from the Governor's budget office to assist with payouts associated with the termination of long-term employees
- **Pay Changes**—Funds were not transferred from other budgeted expenditure categories. Market adjustments to align division staff pay to the agency market policy of 80 percent of market resulted in average hourly pay increasing about one half of the 3.0 percent HB 13 salary adjustments
- **Retirements**—The division anticipates five employees would be eligible for full retirement in the 2011 biennium and these retirements would result in about \$61,000 in unfunded compensated absence liability

DP 1001 - Meat Inspection - Computers-OTO - The executive is requesting \$8,750 general fund and federal special revenue each year of the biennium for replacement computers. The federal government requires that the computers and software used by the state meat inspectors be equal in status to the USDA Food Safety Inspection Program.

DP 1002 - Meat Inspection - Lab Sampling - The executive is requesting an increase in base funding to cover the cost of additional microbiological sampling and testing required by the USDA. The increase is equally split between federal funds and general fund.

DP 1003 - Meat Inspection - Out of State Travel - The executive is seeking appropriation authority to increase out-of-state travel for inspection professionals by \$3,147 each year of the biennium. This decision package adjusts the base to \$3,894 per year, enough to fund three out-of-state trips.

**LFD
ISSUE**

This decision package increases the base budget by over 400 percent. See agency issues for additional information.

DP 1004 - PHPCIS - Maintenance Contracts & Service - The executive is requesting \$6,977 general fund and federal special revenue authority each year of the biennium for computer hardware and software maintenance contracts for the meat inspection program.

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	544.37	544.37	553.69	553.69	544.37	553.69	9.32	1.71%
Personal Services	29,564,814	31,869,195	32,692,335	32,791,657	61,434,009	65,483,992	4,049,983	6.59%
Operating Expenses	13,078,619	14,135,948	15,639,045	15,691,690	27,214,567	31,330,735	4,116,168	15.12%
Equipment & Intangible Assets	1,217,708	1,118,448	1,337,518	1,345,477	2,336,156	2,682,995	346,839	14.85%
Capital Outlay	69,788	135,118	69,788	69,788	204,906	139,576	(65,330)	(31.88%)
Local Assistance	0	200,000	200,000	200,000	200,000	400,000	200,000	100.00%
Grants	1,410,342	1,432,297	1,610,342	1,610,342	2,842,639	3,220,684	378,045	13.30%
Transfers	959,895	977,351	1,218,390	1,228,444	1,937,246	2,446,834	509,588	26.30%
Debt Service	387,283	476,504	478,067	478,067	863,787	956,134	92,347	10.69%
Total Costs	\$46,688,449	\$50,344,861	\$53,245,485	\$53,415,465	\$97,033,310	\$106,660,950	\$9,627,640	9.92%
General Fund	20,883,410	21,819,894	23,633,064	23,672,052	42,703,304	47,305,116	4,601,812	10.78%
State Special	24,052,836	26,686,335	27,504,809	27,651,128	50,739,171	55,155,937	4,416,766	8.70%
Federal Special	1,752,203	1,838,632	2,107,612	2,092,285	3,590,835	4,199,897	609,062	16.96%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$46,688,449	\$50,344,861	\$53,245,485	\$53,415,465	\$97,033,310	\$106,660,950	\$9,627,640	9.92%

Agency Description

Mission: To help ensure Montana's land and water resources provide benefits for present and future generations.

The Department of Natural Resources is tasked to:

1. Manage the state trust land resource to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land
2. Protect Montana's natural resources from wildfires through regulation and partnerships with federal, state, and local agencies
3. Promote stewardship of state water, soil, forest, and rangeland resources, and regulate forest practices to protect water quality
4. Provide administrative, legal, and technical assistance and financial grants to the conservation districts and provide natural resource conservation and development programs
5. Resolve water resource use conflicts, manage state water projects, investigate water use violations, ensure dam safety compliance, and provide water adjudication support to the Water Court
6. Provide administrative support to the Reserved Water Rights Compact Commission to negotiate the settlement of reserved water rights claims of Indian Tribes and federal agencies
7. Provide administrative support to the Board of Oil and Gas Conservation to assist in conservation of oil and gas and prevention of resource waste through regulation of oil and gas exploration and production

The State Board of Land Commissioners, comprised of the Governor, State Auditor, Attorney General, Superintendent of Public Instruction, and Secretary of State, exercise the general authority, direction, and control over the care, management, and disposition of state lands under its administration. The department director is the chief administrative officer of the board.

Agency Highlights

Department of Natural Resources and Conservation Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The executive budget would increase by \$9.6 million or 10 percent in the 2011 biennium from the previous biennium, of which \$6.9 million are statewide present law adjustments ◆ One-time-only proposals total \$1.4 million over the biennium and include: <ul style="list-style-type: none"> • \$615,000 for rehabilitation of state water projects • \$400,000 for grants to conservation districts • \$203,000 for rural water support • \$223,000 for information technology needs • \$15,000 for travel ◆ The remaining \$1.3 million increase relates to base budget adjustments to account for increased rent, contractual costs, and land transaction costs ◆ The Reserved Water Rights Compact Commission (RWRCC) is set to sunset and the executive request reflects that change 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Funding for state dam rehabilitation belongs in HB 5, the long range building program ◆ This budget request will require coordination with any successful legislation that extends the sunset date of the RWCC ◆ Not all goals and objectives are written in a manner in which future evaluation of progress can be competed. 	

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

○ Agency Market –

- New hires will be hired at 85 percent of current position market. The agency will make every effort to move 'new hires' to market as funds become available
- The agency should have a 95 percent market ratio after the October HB 13 pay adjustment relative to the 2006 markets. The analysis relative to the 2008 markets has not been completed but the agency estimates being between 80-85 percent of the 2008 market survey. (This was due to the large number of emergency hires within the department to address wildland fire season. The department is working with the LFD to remedy the situation and will provide that data to the legislature
- The agency revitalized a compensation committee to review current pay plan rules and the 2008 market survey for each position. The committee hoped to have a recommendation to the director

and the rest of leadership by October 2008 to give leadership an opportunity to review and discuss department targets

- Within the 2009 biennium, a portion of the discretionary funding authorized in HB 13 was utilized for moving employees to 92 percent of the 2006 market survey
- The department established "Paragon of Performance," a results base pay program to recognize individuals or teams for accomplishments. These are one-time lump sum bonuses

○ **Obstacles -**

- Positions within the agency that have had major recruitment difficulties have been attorneys, engine bosses, and engineers. This group may be hired at market or above because of these difficulties
- The agency implemented the 0.6 percent funding in HB 13 by splitting it in two. Each employee received 0.3 percent to move them closer to market. Each division could utilize the other 0.3 percent for performance bonuses or to cover vacancy savings requirements

**LFD
COMMENT**

The legislature may wish to receive a briefing on the recommendations made by the agency's compensation committee and leadership's response. The recommendations could have a direct bearing on the agency's budget.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
21 Centralized Services	\$ 5,886,951	\$ 1,190,585	\$ 361,353	\$ 7,438,889	6.97%
22 Oil & Gas Conservation Div.	-	4,154,568	269,884	4,424,452	4.15%
23 Conservation/Resource Dev Div	3,051,933	7,144,814	591,898	10,788,645	10.11%
24 Water Resources Division	17,390,961	9,939,145	339,848	27,669,954	25.94%
25 Reserved Water Rights Comp Com	30,000	-	-	30,000	0.03%
35 Forestry/Trust Lands	20,945,271	32,726,825	2,636,914	56,309,010	52.79%
Grand Total	\$ 47,305,116	\$ 55,155,937	\$ 4,199,897	\$ 106,660,950	100.00%

General fund supports operating costs across the department. The programs in the Forestry Division and the Water Resource Division receive the most general fund support.

The agency receives funds from interest derived from the resource indemnity trust (RIT) for projects and operational support. The grant and loan programs funded by the RIT interest are also managed by the agency. A discussion on RIT and related funds can be found in the agency narrative of the Department of Environmental Quality. Other state special revenue is derived from fire protection taxes, oil and gas operating fees, forest improvement fees, and revenues retained from state land activities for administration costs.

Federal funds come from a variety of sources such as the Federal Emergency Management Agency, the United States Department of Agriculture and the Bureau of Land Management.

**LFD
ISSUE****Natural Resources Operations Funding**

The Resource Indemnity Trust related natural resources operations fund was created by HB 116 of the 2007 Legislature to provide a specific fund for general operations of state natural resource agencies. This fund provides operational support to the department, the Department of Environmental Quality, the Montana Bureau of Mines and Geology, the State Library Commission, and the Water Court. The revenues to the fund are not sufficient to continue to support all activities previously funded. The executive request contains a funding switch for this department and the State Library Commission. The effect of the changes and the estimated balance are summarized in figure 1. Even with the proposed funding switch, by the end of the biennium the fund has a negative ending fund balance, if revenue estimates are accurate and all appropriations are expended. The department expended \$1.8 million in FY 2008 from the natural resources operations fund. The executive requested funding switches include:

- Centralized Services Division: \$249,000 each year of the 2011 biennium from general fund
- Conservation and Resource Development Division: \$686,383 in FY 2010 and \$734,415 in FY 2011 from coal tax shared severance funds

For a complete discussion on RIT and related accounts see the agency narrative section of the Department of Environmental Quality.

Figure 1
Department of Natural Resources and Conservation
Natural Resources Operations State Special Revenue

	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Beginning Balance	\$4,536,375	\$4,178,494	\$2,659,729	\$1,112,900
<u>Non-DNRC Expenditures</u>				
Water Court	905,805	951,711	1,047,422	1,053,147
Mt Bureau of Mines & Geology	103,838	175,886	175,886	175,886
State Library Commission	251,401	251,436	0	0
Department of Environmental Quality	<u>1,662,001</u>	<u>1,776,798</u>	<u>2,140,571</u>	<u>2,148,429</u>
Total Non-DNRC Expenditures	\$2,923,045	\$3,155,831	\$3,363,879	\$3,377,462
<u>DNRC Expenditures</u>				
Centralized Services Division	\$203,934	\$440,247	\$0	\$0
Conservation & Resource Development Division	1,328,062	1,400,871	713,896	686,491
Water Resources Division	210,376	227,884	228,221	228,423
Forestry Division	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Total DNRC Expenditures	\$1,842,372	\$2,169,002	\$1,042,117	\$1,014,914
Total Expenditures	4,765,417	5,324,833	4,405,996	4,392,376
Potential Pay Plan Impact			<u>\$108,245</u>	<u>\$216,489</u>
Revenues	\$4,407,536	\$3,806,068	\$2,967,412	\$3,411,553
Ending Fund Balance	<u>\$4,178,494</u>	<u>\$2,659,729</u>	<u>\$1,112,900</u>	<u>(\$84,412)</u>

*Agency Fire Suppression Costs*FY 2008 Fire Season

Figure 2 depicts the financial impact of the FY 2008 fire season as of September 5, 2008. Part one illustrates the status of paid and unpaid obligations. To date, the state has paid \$48.8 million of the estimated \$81.5 million, leaving an unpaid balance of \$32.7 million.

Figure 2		
Department of Natural Resources and Conservation		
Fire Costs as of September 5, 2008		
<u>PART 1. FY2008 Actual & Estimated Costs</u>		
Paid State Protection Costs (YTD)	\$48,806,616	
Estimated Remaining Protection Costs	32,738,189	
Paid and Current Obligations		<u>\$81,544,805</u>
<u>PART 2. Sources of Funding</u>		
Appropriations-		
DNRC - Fire Suppression Fund	(\$39,000,000)	
DMA - Fire Suppression Fund	(3,000,000)	
Governor's Emergency Fund	(8,000,000)	
		(50,000,000)
Reimbursement Available		
Billable Support - USFS/BLM/NPS./BIA	(10,411,034)	
FEMA Reimbursement	(18,133,771)	(28,544,805)
Unfunded Fire Costs		<u>\$3,000,000</u>
Supplemental Request - HB 3	(\$3,000,000)	<u>\$0</u>

Part two addresses the funding sources to cover the \$81.5 million of estimated costs. HB 1 of the September 2007 Special Session provided \$42.0 million in general fund appropriation authority to cover the net cost to the state. Federal reimbursement is anticipated at \$29.9 million from cost share negotiations on project fires. (Project fires are those fires that escape initial attack and include direct protection zones of two or more agencies.) An additional \$26.7 million is anticipated as the federal share available through emergency assistance granted by the Federal Emergency Management Agency (FEMA) for the Jocko Lakes, Black Cat, Country Club, and Ford Road fires.

After all sources of funding are considered, the unfunded portion of the \$81.5 million in estimated obligations is \$3.0 million. The executive is requesting a supplemental appropriation in HB 3. The increase in costs beyond what the legislature anticipated when making the appropriation, is due to shifts in the share of costs borne by the federal government.

FY 2009 Fire Season

The state has incurred \$8.5 million in fire suppression costs as of September 5, 2008, of which \$2.5 million is reimbursable by other parties, creating a net cost to the state of \$6.0 million. This total compares to an average fire season state share cost of \$17.7 million and a FY 2008 state share cost of over \$50.0 million.

Figure 3 depicts the financial impact of the FY 2009 fire season as of September 5, 2008. Part one illustrates the status of paid and unpaid obligations. To date, the state has paid \$3.2 million of the estimated \$8.5 million.

Part two addresses the funding sources to pay the \$8.5 million of estimated costs. HB1 of the September 2007 Special Session provided \$40.0 million in general fund appropriation authority deposited to the fire suppression fund created by the legislature to pay the net cost to the state for FY 2009. This appropriation will cover the \$6.0 million in estimated state costs. Federal reimbursement is anticipated at \$2.5 million from cost share negotiations on the Bear Gulch,

Figure 3		
Department of Natural Resources and Conservation		
Fire Costs as of September 5, 2008		
<u>PART 1: FY2008 Actual & Estimated Costs</u>		
Paid State Protection Costs (YTD)	\$3,249,205	
Estimated Remaining Protection Costs	5,224,922	
Paid and Current Obligations		<u>\$8,474,127</u>
<u>PART 2: Sources of Funding</u>		
Appropriations-		
DNRC - Fire Suppression Fund		(5,984,667)
Reimbursement Available		
Billable Support - USFS/BLM	(\$2,489,460)	
		(\$2,489,460)
Unfunded Fire Costs		<u>\$0</u>

Knowlton Complex, Dunn Mountain, and Cactus Fires. The state did not qualify for any emergency assistance through FEMA.

Fire Suppression Fund

As per Figure 4 the balance of the fire suppression fund is \$33.1 million. The fund received interest revenues and some reimbursement for fire costs. The fund covered fire suppression costs and provided for the purchase of an additional 25 fire truck chassis for development into wildland fire engines. The latter was a request of the Fire Suppression Committee and approved by the Office of Budget and Program Planning. An additional \$1.0 million is reserved for spring fire costs.

Since the fire suppression fund is set to expire at the end of FY 2009, the remaining balance would transfer to the general fund, unless the legislature chooses to maintain the fund. The executive is proposing that \$31,750,000 of this balance be retained in the fund to pay future fire costs.

Statutory Appropriations

The following figure shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Figure 4	
Department of Natural Resources and Conservation	
Fire Suppression Fund Projected Balance	
<u>Revenues</u>	
General Fund Transfer	40,000,000
Interest Earnings	1,091,094
Fire Suppression Reimbursement	<u>225,085</u>
Total Revenues	<u>\$41,316,179</u>
<u>Expenditures</u>	
FY 2009 Fire Suppression Costs	(5,984,667)
Vehicle Chassis	<u>(1,250,000)</u>
Total Expenditures	(<u>\$7,234,667</u>)
<u>Reserved</u>	
FY 2009 Spring Fires	(1,000,000)
Projected Ending Fund Balance	<u>\$33,081,512</u>

Statutory Appropriations					
Department of Natural Resources and Conservation					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<u>No Direct Bearing on Agency Operations</u>					
Mitigation of Oil and Gas Wells	82-11-161	SSR	\$25,806	\$100,000	\$100,000
Mitigation of Water Wells		SSR	\$4,000	\$4,000	\$4,000
<u>Direct Bearing on Agency Operations</u>					
Fire Suppression Activities	10-3-310	GF	\$8,000,000	*	*

* Statutory funding for fire suppression is directly related to the severity of fire season and the availability of other funding sources

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

The executive is requesting an additional \$3.0 million for FY 2008 fire costs that were not covered by FEMA as originally anticipated.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	20,883,410	20,883,410	41,766,820	88.29%	46,688,449	46,688,449	93,376,898	87.55%
Statewide PL Adjustments	1,766,570	1,758,514	3,525,084	7.45%	3,474,582	3,516,131	6,990,713	6.55%
Other PL Adjustments	103,863	152,709	256,572	0.54%	1,843,301	2,057,329	3,900,630	3.66%
New Proposals	879,221	877,419	1,756,640	3.71%	1,239,153	1,153,556	2,392,709	2.24%
Total Budget	\$23,633,064	\$23,672,052	\$47,305,116		\$53,245,485	\$53,415,465	\$106,660,950	

Agency Issues

The following is a discussion of Fire Protection and Suppression Issues, and Fire Costs and Funding Options.

Suppression Costs

As discussed in the Agency Narrative section, Montana has incurred obligations for fire suppression costs of \$53 million in FY 2008 and \$6.0 million in FY 2009 for a total of \$59.0 million for the biennium.

Historically, fire costs have been paid temporarily from the Forestry Division's general fund appropriation and through the Governor's statutory emergency appropriation if an emergency or disaster is declared. The department is then reimbursed and all other bills, except those paid with emergency appropriation authority, are funded through a supplemental appropriation.

However, at the end of the FY 2008 fire season, the department was unable to utilize these tactics to pay the fire bill due primarily to the magnitude. The Governor called a special session for the legislature to appropriate \$39.0 million to the department and an additional \$3.0 million to the Department of Military Affairs.

While in special session, the legislature established a fire suppression fund for FY 2009 only by transferring \$40.0 million general fund to the fund and created a Fire Suppression Interim Committee, charged with the following:

- An investigation of firefighting operations in Montana, including operations on tribal land and private land, by the state and federal governments and the management policies affecting the success of those operations
- An investigation of the efficient use of fire suppression resources including equipment and firefighters
- An investigation of impacts of operations on private land and on the effective use of private resources to fight fires
- An investigation of state and federal forest management police and how those police may contribute to an increased number of wildfires, greater safety risk to firefighters, or compromised effectiveness of fire suppression efforts

The interim committee was essentially tasked to deal the changing realities of fire suppression such as increased costs, decreased FEMA assistance, fire locations, and changing relationships with federal partners.

Increased Costs

Figure 5

Department of Natural Resources and Conservation
Average Cost of Fire Suppression

Fiscal Year	Total Cost	Reimbursements	Net Cost
2003	6,710,688	4,684,927	2,025,761
2004	79,579,965	44,582,841	34,997,124
2005	3,969,096	989,945	2,979,151
2006	8,302,312	3,240,042	5,062,270
2007	61,000,318	21,290,928	39,709,390
2008	81,544,805	31,544,805	50,000,000
2009	8,474,127	2,489,460	5,984,667
7 year total	241,107,184	106,333,488	134,773,696
7 year average	34,443,883	15,190,498	\$ 19,253,385
5 year adjusted average	\$ 32,813,482	\$ 12,650,032	\$ 17,746,520

A significant event rising from the FY 2008 fire season is the impact the estimated total cost has had on the average state cost of fire suppression. The Legislative Fiscal Division calculates this cost by analyzing the last seven years of fire bills, removing the high and low seasons and dividing by five. The FY 2008 fire season and the FY 2007 fire season have increased the average from about \$7.0 million per year to a current estimate of \$17.7 million per year, or \$35.4 million per biennium. This cost renders the Governor's emergency fund, \$16 million per biennium, insufficient to cover wildland fire suppression costs, let alone other emergencies the fund was designed

to address. Figure 5 provides a snap shot of historic fire cost.

Decreased FEMA assistance

During the 2000 fire season (FY 2001), Montana was provided blanket approval for financial assistance from the head of FEMA when he toured the fires with Senator Max Baucus. Later in FY 2004, the state received FEMA assistance based on the established criteria wherein 50 structures were threatened. For the FY 2007 fire season, FEMA raised that threshold to 100 structures. This change is a result of FEMA standardizing threshold criteria across the nation. The change in the approach to and criteria for emergency assistance has resulted in the state receiving substantially less financial support from FEMA.

Each FEMA declaration is date and time sensitive. The state is eligible for 75 percent assistance of allowable costs within the declaration period. The department estimated that the amount of FEMA reimbursement for FY 2008 would be \$25.5 million. Should FEMA disallow certain costs, reimbursement will be lower. As stated, the executive seeks a supplemental appropriation of \$3 million for FY 2008 due to lower than anticipated reimbursements.

Fire in the Wildland Urban Interface

The wildland urban interface is that area where structures and other development meets or intermingles with undeveloped wildland. When homes, outbuildings, and commercial buildings are in the path of wildland fire, fire line tactics become more limited and additional resources are utilized to protect those structures in addition to those deployed to suppress the fire. A fire in a region without (or with few) buildings is generally easier and less costly to suppress.

An example of this can be made from the FY 2008 fire season in the comparison between the Jocko Lake and the Chippy Creek fires. The Jocko Lake fire was located in the wildland urban interface where at one time 3,100 structures were threatened. The fire burned about 35,000 acres and had a total cost of \$31.0 million.

Chippy Creek, on the other hand, burned almost 100,000 acres. However, with less than 100 structures threatened it cost about \$15.0 million. The Jocko Lake fire had a per acre cost of \$887, while Chippy Creek was \$157, in part due to the difference in the landscape where the fire occurred.

Relationship with Federal Partners

The United States Forest Service (USFS) is one of the state's largest partners in fire suppression and forest management. USFS practices have been widely discussed within the media, the natural resource community, and more recently at hearings of the Fire Suppression Interim Committee (FSIC).

The policy decisions of the USFS have a direct financial bearing on the state, specifically fire management, and cost sharing changes. Both of these issues were extensively discussed by the FSIC.

The USFS tends to utilize fire for management purposes and therefore is not an aggressive initial attack agency. This, however, has caused increased costs to the state. In the case of the Ahorn and Meriwether fires of FY 2008, the USFS utilized those fires for landscape management purposes. However, costs were incurred by the state when those fires migrated into the state's direct protection area. Therefore, a significant issue is who should really pay the costs when an entity takes less than full suppression tactics, and the direct result is that the fire migrates to another direct protection zone where it can be controlled.

Cost Sharing

Cost share agreements document the financial responsibility for incident costs. It is traditionally prepared for multi-jurisdictional incidents where the decision has been made to share resources. The DNRC line officer is responsible for the cost share process including negotiation and oversight on behalf of the state. Cost-share agreements can be adjusted as incidents grow or include additional jurisdictions. Cost share agreements are reviewed by managerial staff of the Fire and Aviation Bureau prior to signature if time allows. This was the case for FY 2008 fires, except for Jocko Lakes, Brush Creek, Black Cat, and Chippy Creek, which had been sent to a cost negotiation team consisting of representatives from DNRC, US Forest Service, and the Bureau of Indian Affairs. The cost negotiation team evaluated fire data and utilized one of the following to most accurately represent the effort expended by each entity in relation to their direct protection lands.

- You Order You Pay (YOYP) – Each agency is fiscally responsible for the resources they order, regardless of where they are used on the incident
- Acres Burned – Costs are shared based on the acreage percentage of the fires within an agency's protection area.
- Cost Apportionment – Costs are shared based upon the usage of resources for operational periods. Direct costs are shared based upon assignment in the incident action plan or actual use. Support costs are shared proportionately to the direct costs
- Miles of Control Line Built – Cost share is based on a percentage of the total perimeter of the fire for each agency's protection area. This assumes an average level of effort put for each mile of line through all protection areas
- Percentage of Total Perimeter Miles – Cost share is based in the final fire perimeter. This method would reflect suppression efforts by protection agency area but may not be representative of area burned.
- Cost is shared equally among the agencies

Figure 6
Department of Natural Resources and Conservation
Potential Cost Share Scenarios for a \$5.0 million fire

Agency	Acres Burned	Cost Apportionment	Percentage of		
			Miles of Control Line	Total Perimeter	Equal Split
DNRC	13% - \$0.65	25% - \$1.25	45% - \$2.25	47% - \$2.35	33.3% - \$1.665
USFS	52% - \$2.6	40% - \$2.0	20% - \$1.0	17% - \$0.85	33.3% - \$1.665
BIA	35% - \$1.75	35% - \$1.75	35% - \$1.75	36% - \$1.8	33.3% - \$1.665

Figure 6 demonstrates a comparison of cost share methodologies in millions on a fictional fire valued at \$5.0 million.

Changes in cost share agreements for FY 2008 are summarized in the Figure 7 below. The interim committee suggests in its final report that these cost shifts be monitored by the Legislative Finance

Committee to determine if the impacts to the state continue to rise.

Recommendations of the Fire Suppression Interim Committee

The Fire Suppression Interim Committee discussed many potential options to ease the cost and complexities of managing the state's fire program, including department resources, policy changes, and suppression funding tactics.

Department Resources

The committee formally requested specific items during the interim to immediately increase department resources:

- Extend Engine Crews to seven days/wk - Increase seasonal positions on DNRC engines to provide seven days/wk coverage. This initiative would require approximately 7.0 seasonal FTE and \$260,000.

Figure 7
FY 2008 Cost Share Shifts

Fire	Oct. Report	Nov. Report	Difference
Brush Creek	\$2,929,854	\$3,369,332	\$439,478
Chippy Creek	4,202,000	9,741,000	5,539,000
Black Cat*	2,310,000	1,940,400	(369,600)
Jocko Lake*	8,880,600	8,702,988	(177,612)
Total	\$18,322,454	\$23,753,720	\$5,431,266

* state share change after FEMA payments

- Extend Aviation Coverage to seven days/wk - Increase seasonal positions in the Aviation Program to provide seven days/wk coverage. This increase would staff each helicopter with a manager, crew, and fuel truck driver. This initiative would require approximately 6.79 seasonal FTE and \$469,846.
- Fire Business Specialists - Increase the presence of fire business specialists in the field offices and within the Centralized Services Division. These individuals would also serve as incident business advisors on DNRC managed fires. This initiative would increase the fiscal oversight during and after fire season, and would require approximately 4.0 seasonal FTE and \$300,000.
- Dispatch Center Staff - Augment existing and add additional dispatch positions at all land offices for increased representation in interagency dispatch centers, yielding better distribution of firefighting resources on state and local government fires. This initiative would require approximately 4.25 seasonal FTE and \$95,000.
- Operations Section Supervisor - Increase the efficiency in fire management fire operations across the state and consistently represent DNRC within the Northern Rockies Coordinating Group by adding 1.0 modified FTE as a section supervisor within the Fire and Aviation Management Bureau. This addition would require approximately \$95,000.
- Engine Development - Purchase 25 vehicle chassis for development for the purpose of further reducing the number of aged fire vehicles currently in the field. The committee determined that the \$1.25 million needed for this purchase was available from the fire suppression fund.

The executive approved the use of the statutorily appropriated fire suppression fund for the extended aviation and engine crews and to develop additional chassis. The other items were not approved. The executive budget request includes the base adjustment for the staffing changes. The engine development was a one-time-only cost.

Policy Issues

In addition to the above resource requests, the committee evaluated the need for other policy changes that included a fiscal impact. Some of those items are being drafted into potential legislation. They include:

- Fuel Reduction Program – Appropriate \$3.0 million to create a pilot project for fuels reduction on state land in the wildland-urban interface by utilizing private contractors who then can be shifted to fire suppression when needed - LC 477
- Montana Fire Easement Program – create an incentive-based voluntary way for landowners who take a series of defined actions to reduce the risk of catastrophic fire and to be compensated for those actions. The qualifying landowner would receive an income tax credit - LC 473
- Wildland Urban Interface Building – Require the Department of Labor and Industry (DOLI) to develop building standards for houses built within the wildland urban interface, this would require resources for DOLI - LC 472
- National Environmental Protection Act (NEPA) - Require the department to obtain coordinating and cooperating agency status under NEPA. This would enable the department to work closer with the USFS when land management issues arise. A \$200,000 general fund appropriation is requested - LC 487
- Major Litigation – Appropriate \$200,000 for the state to participate in certain lawsuits brought against the federal government for forest management practices. Draft legislation was not proposed for this item. The committee determined that this would best be completed in HB 2

Recommendation for funding

The committee discussed options to provide upfront costs for:

- Fire suppression to potentially avoid future special sessions
- How to fund the protection program. The protection portion of the program is the equipment and training the agency needs to be mission ready. It is currently required in statute to be funded at 1/3 forest assessments and 2/3 general fund. The cap in statute will not provide enough revenue to adhere to the formula and implement the executive's requested budget.

The committee requested draft legislation for the following options:

Suppression Funding

- LC 503 - Provide for an on going fund transfer to the fire suppression account; remove the termination date for the fire suppression account; and allow a certain amount in the account to be used for additional county co-op equipment, fuels mitigation, and rural fire assistance matching grants.
- LC 504 – Increase the Governor’s emergency fund and provide that the increase only be used for wildland fire; extend the termination date on the fire suppression fund account and the statutory appropriation of that account.

Protection Funding

- LC 483 – Simplify the process for collecting fire protection assessments, including allocating a fair portion to condominiums in the wildland urban interface.
- LC 502 – Remove the requirement that the total amount of the assessments collected by the department from landowners not exceed one-third of the amount specified in the appropriation for fire protection costs.

Summary

The direction of the fire suppression program in Montana could be changed by the 2009 Legislature with the passage and approval of a number of the above mentioned bills. Due to the sheer magnitude of the issues associated with forest management, many issues identified by the committee were not addressed. This includes items such as forest products industry access to forest fuels, state and federal relations, contracting guidance, and insurance industry changes. The legislature may wish to consider one or more of the following:

- Align resources of the program based on which bills, if any, are passed and approved through coordinating language in HB 2
- Request legislation to extend the activities of the Fire Suppression Interim Committee for an additional interim
- Request a resolution for the Environmental Quality Council (EQC) to establish a sub-committee to continue the work of the Fire Suppression Interim Committee
- Request a joint sub-committee of the EQC and the Legislative Finance Committee to continue the work of the Fire Suppression Interim Committee

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	41.50	41.50	41.50	41.50	41.50	41.50	0.00	0.00%
Personal Services	2,421,039	2,659,504	2,697,366	2,706,422	5,080,543	5,403,788	323,245	6.36%
Operating Expenses	767,779	648,253	1,060,816	959,975	1,416,032	2,020,791	604,759	42.71%
Equipment & Intangible Assets	7,155	20,000	7,155	7,155	27,155	14,310	(12,845)	(47.30%)
Capital Outlay	0	10,000	0	0	10,000	0	(10,000)	(100.00%)
Total Costs	\$3,195,973	\$3,337,757	\$3,765,337	\$3,673,552	\$6,533,730	\$7,438,889	\$905,159	13.85%
General Fund	2,414,779	2,594,318	2,981,912	2,905,039	5,009,097	5,886,951	877,854	17.53%
State Special	681,199	668,439	593,908	596,677	1,349,638	1,190,585	(159,053)	(11.78%)
Federal Special	99,995	75,000	189,517	171,836	174,995	361,353	186,358	106.49%
Total Funds	\$3,195,973	\$3,337,757	\$3,765,337	\$3,673,552	\$6,533,730	\$7,438,889	\$905,159	13.85%

Program Description

The Centralized Services Division provides managerial and administrative support services to the department through: 1) the Director's Office, which includes the director, legal staff, and public information; and 2) support services, which manages all financial activities, coordinates information systems, produces publications and graphic materials, and performs general administrative support services. Support services include fiscal affairs, data processing, personnel, legal, reception, and mail. Responsibilities include trust revenue collection and distribution and maintenance of ownership records for trust and non-trust state-owned land. The division also coordinates the state's Restoration Program.

Program Highlights

Centralized Services Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The proposed biennial budget is 14 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments ◆ The executive requests a funding switch of state special revenue RIT funds to general fund ◆ A one-time only proposal for electronic filing is included in the request ◆ The division provided program goals and objectives 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The request for one-time only funding contains both one-time and on going costs 	

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Establish a statewide restoration coordinator and contract for data system development

Success: The database development contract was awarded Fusion Ware to search for available restoration grant funding and to CDM for restoration mapping. A memorandum of understanding was issued to the Department of Labor and Industry for a study on the economic impacts of a restoration economy.

Challenges: The state restoration coordinator position turned over in the biennium, creating some delays in meeting the objectives to the goal.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

The majority of the goals within the Centralized Services Division are in relation to the service the division provides to the remainder of the department. The exception is the State Restoration Program.

State Restoration Coordination Program Goal:

- Ensure Montana's land and water resources benefit present and future generations
 - Collaborative Approach: Establish a collaborative approach to Montana's restoration activities among government, local, tribal, private and non-profit entities to maximize efficiency in allocation of funds and enhance Montana's natural environment
 - Information Clearinghouse: Serve as clearinghouse for restoration information
 - Training and Education: Coordinate, develop and recommend restoration training and education opportunities for students, professionals, and workforce
 - Communications and Outreach: Provide public information and outreach to share current and consistent restoration information with stakeholders
 - Economic Impacts: Estimate the economic impact of restoration and increase economic development by creating restoration business and job opportunities
 - Policy: Identify and recommend incentives and policies to fund restoration activities

LFD ISSUE

Objectives cannot provide measure of success

This program was established to develop a statewide restoration plan regarding coordination of activities and resources to increase the economy through job development and the speed in which land is reclaimed. If the strategic plan is completed, it should contain the relevant objectives to determine the success of plan implementation.

The objectives provide an insight to the reader of what the goal is to accomplish. However, they are not specific, time oriented, or measureable. These types of objectives cannot aid in determining if progress toward the goal has been made. The objectives should be drafted so that the reader can make a determination about what success would be. Simply saying "coordinate" or "develop" or "increase" doesn't imply that anything will get accomplished during the biennium or ever.

The legislature may wish to review the strategic plan and discuss with the agency how the objectives could be modified so that they may be used by the legislature to determine progress toward achievement of the goal during the 2011 biennium and into the future.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Centralized Services						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 2,414,779	75.6%	\$ 2,981,912	79.2%	\$ 2,905,039	79.1%
01100 General Fund	2,414,779	75.6%	2,981,912	79.2%	2,905,039	79.1%
02000 Total State Special Funds	681,199	21.3%	593,908	15.8%	596,677	16.2%
02039 Forestry-Fire Protection Taxes	74,500	2.3%	75,000	2.0%	75,000	2.0%
02052 Rangeland Improvement Loans	15,000	0.5%	15,000	0.4%	15,000	0.4%
02073 Forestry - Slash Disposal	5,000	0.2%	5,000	0.1%	5,000	0.1%
02145 Broadwater O & M	9,500	0.3%	9,700	0.3%	9,700	0.3%
02280 Forest Resources-Timber Sales	78,000	2.4%	78,500	2.1%	78,500	2.1%
02340 Coal Sev. Tax Shared Ssr	10,000	0.3%	10,000	0.3%	10,000	0.3%
02430 Water Right Appropriation	65,000	2.0%	65,500	1.7%	65,500	1.8%
02431 Water Adjudication	28,350	0.9%	85,000	2.3%	85,000	2.3%
02432 Oil & Gas Era	63,500	2.0%	69,959	1.9%	69,959	1.9%
02449 Forest Resources-Forest Improv	32,000	1.0%	38,249	1.0%	41,018	1.1%
02450 State Lands Res Dev	26,443	0.8%	52,000	1.4%	52,000	1.4%
02576 Natural Resources Operations Ssr Fu	203,934	6.4%	-	-	-	-
02825 Water Well Contractors	5,000	0.2%	5,000	0.1%	5,000	0.1%
02938 Tlmd - Administration	64,972	2.0%	85,000	2.3%	85,000	2.3%
03000 Total Federal Special Funds	99,995	3.1%	189,517	5.0%	171,836	4.7%
03255 Csd Federal Indirect	99,995	3.1%	189,517	5.0%	171,836	4.7%
Grand Total	\$ 3,195,973	100.0%	\$ 3,765,337	100.0%	\$ 3,673,552	100.0%

The Centralized Services Division is funded primarily with general fund, a variety of resource based accounts such as revenue from timber sales, taxes on oil and gas wells, and federal indirect grant reimbursements. To obtain funding the department charges overhead rates to other divisions to recover costs. The rate varies depending upon the type and amount of managerial, payroll, contract, and accounts payable services provided to the divisions.

The executive is requesting a funding switch of general fund for the natural resources operations fund of \$249,000 each year of the biennium. The purpose of this switch is to avoid over appropriation of the natural resources operations fund. This fund is a Resource Indemnity Trust (RIT) fund and the discussion of this fund is located in the Conservation and Resource Development Division funding discussion. The full discussion of RIT issues is located in the Agency Narrative of the Department of Environmental Quality.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	2,414,779	2,414,779	4,829,558	82.04%	3,195,973	3,195,973	6,391,946	85.93%
Statewide PL Adjustments	302,321	214,011	516,332	8.77%	508,786	395,476	904,262	12.16%
Other PL Adjustments	9,176	20,831	30,007	0.51%	48,942	70,685	119,627	1.61%
New Proposals	255,636	255,418	511,054	8.68%	11,636	11,418	23,054	0.31%
Total Budget	\$2,981,912	\$2,905,039	\$5,886,951		\$3,765,337	\$3,673,552	\$7,438,889	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					388,715					398,149
Vacancy Savings					(112,388)					(112,766)
Inflation/Deflation					4,190					5,378
Fixed Costs					228,269					104,715
Total Statewide Present Law Adjustments					\$508,786					\$395,476
DP 2101 - Centralized Services Operating Adjustment	0.00	9,176	5,249	34,517	48,942	0.00	20,831	8,018	41,836	70,685
Total Other Present Law Adjustments	0.00	\$9,176	\$5,249	\$34,517	\$48,942	0.00	\$20,831	\$8,018	\$41,836	\$70,685
Grand Total All Present Law Adjustments					\$557,728					\$466,161

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate –**
 - Attorneys, accountants, and information technology application pools have been light and competition between other state agencies is high. In FY 2008 the department completed recruitment for attorneys three times. The lack of resources within the agency for legal assistance caused a strain particularly in the water arena
 - The division has hired attorneys, accountants, and information technology positions higher than the entry of 85 percent of the market due to recruitment difficulties
- **Vacancy –**
 - Accounting technicians have the highest turnover rate within the division as it is an entry level accounting position and sometimes tedious work. The division is experimenting with interns from both vo-technical schools and colleges to hopefully apply for vacant positions when their education is complete. The bureau chief is also looking at job position re-structuring. The bureau has had success in creating two half-time positions for accounting tech work
 - Attorney vacancies have created a back-log in legal work, particularly in the area of water law. Comp time was accrued and lower priority issues pushed back. Accounting tech vacancy work has been re-distributed to other staff as the position has monthly deadlines
- **Legislatively applied vacancy savings -** In FY2008 attorney vacancies made up the 4 percent required vacancy savings for the division
- **Pay Changes –**
 - Additional vacancy savings attained was utilized to hire two attorneys at a market higher than the typical entry of 85 percent. Pay exceptions were also given to two existing attorney positions for reasons of retention and internal equity
 - Discretionary funds authorized in HB 13 were utilized for these pay adjustments as well as attorney position vacancy savings
- **Retirements -** Ten employees, 25 percent of the staff, will be eligible for full retirement in the 2011 biennium at an estimated cost of \$100,000. Two employees retired in FY 2008 and no known retirements are anticipated in FY 2009

DP 2101 - Centralized Services Operating Adjustment - The executive requests funds are for increased rates for janitorial services, targeted server and computer replacement, and rent at one non-state building.

**LFD
COMMENT**

The rent increase for the main headquarters in Helena is estimated to be \$9,269 in FY 2010 and \$14,975 in FY 2011 based on a 3 percent escalator contained in the lease.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2102 - Natural Resources Operations Acct - Funding Switch										
21	0.00	249,000	(249,000)	0	0	0.00	249,000	(249,000)	0	0
DP 2151 - Centralized Services Legal Imaging - OTO										
21	0.00	5,000	0	5,000	10,000	0.00	5,000	0	5,000	10,000
DP 6101 - Fixed Cost Workers Comp Management Program Allocate										
21	0.00	1,636	0	0	1,636	0.00	1,418	0	0	1,418
Total	0.00	\$255,636	(\$249,000)	\$5,000	\$11,636	0.00	\$255,418	(\$249,000)	\$5,000	\$11,418

DP 2102 - Natural Resources Operations Acct - Funding Switch - To balance expenditures with available revenue in the natural resources operations account, the executive requests a funding switch of \$249,000 general fund each year of the biennium for the same amount of state special revenue. Funding is used to help pay for the staff and operating expenses of the Centralized Services Division.

**LFD
COMMENT**

The natural resources operations fund is unable to sustain base level funding for all programs. See the issue under funding in the Summary Section.

DP 2151 - Centralized Services Legal Imaging - OTO - This one-time-only request is for general and federal special funds of \$10,000 per year to institute and maintain a searchable electronic database of the legal unit's case files using FileNet. The project is contracted through the Department of Administration-ITSD.

**LFD
COMMENT**

Proposal contains on-going costs

This request is comprised of a one time cost for a capture license for scanning software of \$3,000. The remaining costs are license fees (\$300 per year) and electronic storage costs of \$6,700 in FY 2010 and \$9,700 on FY 2011. The latter two are costs that will be required to support the imaging project beyond the 2011 biennium. The department contends that the on-going costs will be absorbed into base funding for the 2013 biennium.

DP 6101 - Fixed Cost Workers Comp Management Program Allocate - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	20.50	20.50	20.50	20.50	20.50	20.50	0.00	0.00%
Personal Services	1,004,109	1,323,256	1,333,138	1,348,582	2,327,365	2,681,720	354,355	15.23%
Operating Expenses	676,963	862,022	757,746	758,642	1,538,985	1,516,388	(22,597)	(1.47%)
Equipment & Intangible Assets	47,672	53,345	110,172	110,172	101,017	220,344	119,327	118.13%
Grants	3,000	7,000	3,000	3,000	10,000	6,000	(4,000)	(40.00%)
Total Costs	\$1,731,744	\$2,245,623	\$2,204,056	\$2,220,396	\$3,977,367	\$4,424,452	\$447,085	11.24%
State Special	1,731,744	2,245,623	2,069,114	2,085,454	3,977,367	4,154,568	177,201	4.46%
Federal Special	0	0	134,942	134,942	0	269,884	269,884	n/a
Total Funds	\$1,731,744	\$2,245,623	\$2,204,056	\$2,220,396	\$3,977,367	\$4,424,452	\$447,085	11.24%

Program Description

The Oil and Gas Conservation Division administers the Montana oil and gas conservation laws to promote conservation and prevent waste in the recovery of these resources through regulation of exploration and production of oil and gas. The division 1) issues drilling permits; 2) classifies wells; 3) establishes well spacing units and pooling orders; 4) inspects drilling, production, and seismic operations; 5) investigates complaints; 6) performs engineering studies; 7) determines incremental production for enhanced recovery and horizontal wells to implement the tax incentive program for those projects; 8) operates the underground injection control program; 9) plugs orphan wells; and 10) collects and maintains complete well data and production information.

Program Highlights

Oil and Gas Conservation Division	
Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The proposed biennial budget is 11 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments ◆ The budget contains \$107,500 in one-time-only funding to address: <ul style="list-style-type: none"> • Storage needs (\$100,000) • Board travel (\$7,500) ◆ Federal revenue authority is requested for the Underground Injection Control Program 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The exempt staff potential pay increase could be funded with vacancy savings ◆ Two long term vacant positions should be reviewed for necessity 	

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Operate a field inspection program to ensure compliance with BOGC rules, resolve complaints and gather accurate field information for use by the board and staff in making decisions
 - Conduct inspections on approximately 700 drilling wells, 10,000 producing oil and gas wells, 300 plugged and abandoned wells, and 10 seismic exploration crews

- Resolve complaints timely with thorough investigations and appropriate Board review

Successes: In FY 2008, the number of plugged and abandoned wells inspected was greater than anticipated. Only one complaint was raised to the full board and it was subsequently resolved.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Operate a field inspection program to ensure compliance with the Board of Oil and Gas Conservation (BOGC) rules, resolve complaints, and gather accurate field information for use by the board and staff in making decisions.
 - Conduct inspections on approximately 700 drilling wells, 2,100 producing wells, 300 plugged and abandoned wells, and 10 seismic exploration crews
 - Respond to complaints and provide emergency response for spills, leaks, and other environmental problems
 - Provide recommendations for enforcement actions and reports and data in support of the regulatory program.

LFD ISSUE

Timing of Objectives

The objectives to the goal clearly define what the field inspection program will be doing, but will not aid in measuring success toward the goal. Inspections, complaint resolution, and emergency response all require a time criteria to determine if the division is successful in assuring compliance with board rules. For example, what is the impact on the success of the program if the emergency response time is not adequate and environmental damage occurs? These objectives do not address that possibility. The legislature may wish to discuss with the agency what time frames correspond with each activity and if historical data is available.

- Issue approximately 700 to 800 drilling permits per year, conduct Montana Environmental Policy Act (MEPA) compliance review, and prepare documentation for each requested permit

LFD ISSUE

No Objectives

This goal was submitted without objectives. The reader would assume that the division will merely count the number of permits issued without regard to the timeliness or adequacy of the permits. The legislature may wish to discuss with the agency how success in the permit program could be measured.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Oil & Gas Conservation Div.						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 1,731,744	100.0%	\$ 2,069,114	93.9%	\$ 2,085,454	93.9%
02432 Oil & Gas Era	1,731,744	100.0%	2,069,114	93.9%	2,085,454	93.9%
03000 Total Federal Special Funds	-	-	134,942	6.1%	134,942	6.1%
03356 Oil & Gas Federal	-	-	134,942	6.1%	134,942	6.1%
Grand Total	<u>\$1,731,744.00</u>	100.0%	<u>\$2,204,056.00</u>	100.0%	<u>\$2,220,396.00</u>	100.0%

The division is funded through taxes levied on oil and gas wells and the class II annual operating fee. By statute (15-36-

331, MCA), a percentage of oil production taxes and natural gas taxes are deposited to the account for the board's use. The Board of Oil and Gas Conservation (BOGC) is authorized by statute (82-11-131, MCA) to set privilege and license taxes up to 3/10 of 1 percent of the market value of each barrel of crude petroleum produced and of each 10,000 cubic feet of natural gas produced to comply with 15-36-331 MCA. The privilege and license tax is currently set at 30 percent of the maximum allowed by statute. Section 82-11-137, MCA provides for a maximum \$300 annual operating fee for each class II injection well. The board set the fee at \$200.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	1,731,744	1,731,744	3,463,488	78.28%
Statewide PL Adjustments	0	0	0	0.00%	260,766	264,052	524,818	11.86%
Other PL Adjustments	0	0	0	0.00%	68,246	81,414	149,660	3.38%
New Proposals	0	0	0	0.00%	143,300	143,186	286,486	6.48%
Total Budget	\$0	\$0	\$0		\$2,204,056	\$2,220,396	\$4,424,452	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					296,216					298,590
Vacancy Savings					(52,013)					(52,111)
Inflation/Deflation					7,551					8,760
Fixed Costs					9,012					8,813
Total Statewide Present Law Adjustments					\$260,766					\$264,052
DP 2201 - Oil & Gas Operating Adjustment	0.00	0	18,246	0	18,246	0.00	0	31,414	0	31,414
DP 2202 - Board of Oil & Gas Office Equipment-BIEN-OTO	0.00	0	50,000	0	50,000	0.00	0	50,000	0	50,000
Total Other Present Law Adjustments	0.00	\$0	\$68,246	\$0	\$68,246	0.00	\$0	\$81,414	\$0	\$81,414
Grand Total All Present Law Adjustments					\$329,012					\$345,466

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - Due to the large number of emergency hires within the department to address wildland fire season, there has been difficulty in calculating the market rate for 2008. The department is working with the LFD to remedy the situation and will provide that data to the committee
- **Vacancy** - The program has had little turnover. One retirement in FY 2007 allowed for the re-structuring of work and reassignment to other employees
- **Legislatively applied vacancy savings** –
 - Two long-term vacant positions allowed the division to meet vacancy savings requirements. The division under spent the FY 2008 personal services budget by 16 percent

- Additional vacancy savings attained was utilized for a market adjustment for one employee and the remaining was reverted
- **Pay Changes –**
 - One technician was given a market adjustment in June 2008.
 - Discretionary funds authorized in HB 13 were utilized for "Paragon of Performance" described in agency policy for several employees within the program. Awards were based on exceptional performance
- **Retirements -**
 - Four employees, 25 percent of the division, will be eligible for full retirement in the 2011 biennium at an estimated cost of \$80,000
 - The division may have one retirement before the end of FY 2011 and will begin the recruitment well in advance of any departure. The successful candidate will be placed into the vacating position and have time with the retiree to exchange information and fully understand the position.

**LFD
ISSUE****Long Term Vacancies**

The division has two positions that have been vacant longer than 12 months. The legislature may wish to discuss with the program the need for these two positions. If the legislature chooses to eliminate funding for the positions a present law decision package would need to be developed.

**LFD
COMMENT**

There are four positions that are considered staff of the Board of Oil and Gas Conservation. These positions are considered exempt and at the control of the board. Pay adjustments are made by the board and may be greater than increases provided by the legislature.

DP 2201 - Oil & Gas Operating Adjustment - The executive recommends additional state special revenue of \$18,246 in FY 2010 and \$31,414 in FY 2011 for board per diem, exempt staff pay, janitorial, and rent increases for non-state buildings within the Regulatory and Underground Injection Control Programs.

**LFD
ISSUE****Exempt Staff Pay**

The executive is requesting \$13,168 in FY 2010 and \$26,336 in FY 2011 of state special revenue over the biennium to fund exempt staff pay increases. The authority would cover pay increases that may be granted by the Board of Oil and Gas for the four exempt positions in the division. Exempt staff pay raises beyond what is provided for in HB 13 must be funded in some other manner. The division could also utilize vacancy savings for this purpose. To cover this cost, the division would need to achieve an additional vacancy savings of 1 percent in FY 2010 and 2 percent in FY 2011.

Options

- Disapprove the decision package and direct the division to cover exempt staff pay raises from vacancy savings
- Approve the package as is

DP 2202 - Board of Oil & Gas Office Equipment-BIEN-OTO - The executive request one-time-only budget authority of \$100,000 state special revenue funds in order to procure four new office cubicles estimated at \$10,000 each and a high density compact mobile storage system for well files estimated at \$60,000 for the new building in Billings approved by the 60th Legislature.

**LFD
COMMENT**

These costs were not included in the original cost estimates developed by the Department of Administration.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 2204 - North American Prospect Exhibition-OTO										
22	0.00	0	7,500	0	7,500	0.00	0	7,500	0	7,500
DP 2206 - Underground Injection Control (UIC) Funding Change										
22	0.00	0	0	134,942	134,942	0.00	0	0	134,942	134,942
DP 6101 - Fixed Cost Workers Comp Management Program Allocate										
22	0.00	0	858	0	858	0.00	0	744	0	744
Total	0.00	\$0	\$8,358	\$134,942	\$143,300	0.00	\$0	\$8,244	\$134,942	\$143,186

DP 2204 - North American Prospect Exhibition-OTO - The executive is requesting one-time-only state special revenue authority of \$7,500 per year for staff and board members to attend and sponsor a booth at the annual North American Prospect Exhibition in Houston. Funding will provide travel, supplies, and booth rental and registration fees.

DP 2206 - Underground Injection Control (UIC) Funding Change - The executive is requesting federal special revenue of \$134,942 in FY 2010 and \$134,942 in FY 2011 for the UIC program. The department historically has had language in HB 2 that allowed it to shift authority from state special revenue to federal funding when the grant amount was known for this program. That language was stricken last session and authority is requested for the annual Environmental Protection Agency (EPA) grant.

**LFD
ISSUE**

This would establish federal revenue authority in the division's base budget to allow for expenditure of the annual EPA grant. The department utilized a budget amendment to establish \$104,900 of federal special revenue authority for FY 2008. The request represents a 28 percent increase over the base year. The average grant award since FY 2004 has been \$103,925. The legislature may wish to reduce the authority to align with historical funds.

DP 6101 - Fixed Cost Workers Comp Management Program Allocate - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	24.50	24.50	24.50	24.50	24.50	24.50	0.00	0.00%
Personal Services	1,501,343	1,571,834	1,592,284	1,599,387	3,073,177	3,191,671	118,494	3.86%
Operating Expenses	1,820,039	1,878,135	2,116,481	2,144,509	3,698,174	4,260,990	562,816	15.22%
Equipment & Intangible Assets	45,141	54,996	45,141	45,141	100,137	90,282	(9,855)	(9.84%)
Local Assistance	0	200,000	200,000	200,000	200,000	400,000	200,000	100.00%
Grants	1,222,851	1,240,806	1,422,851	1,422,851	2,463,657	2,845,702	382,045	15.51%
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	0	0	0	0	0	0	0	n/a
Total Costs	\$4,589,374	\$4,945,771	\$5,376,757	\$5,411,888	\$9,535,145	\$10,788,645	\$1,253,500	13.15%
General Fund	1,367,141	1,395,252	1,519,369	1,532,564	2,762,393	3,051,933	289,540	10.48%
State Special	2,956,284	3,276,911	3,561,439	3,583,375	6,233,195	7,144,814	911,619	14.63%
Federal Special	265,949	273,608	295,949	295,949	539,557	591,898	52,341	9.70%
Total Funds	\$4,589,374	\$4,945,771	\$5,376,757	\$5,411,888	\$9,535,145	\$10,788,645	\$1,253,500	13.15%

Program Description

The Conservation and Resource Development Division provides technical, administrative, financial and legal assistance to Montana's 58 conservation districts by administering the Conservation District Act, Montana Rangeland Resources Act, and the Natural Streambed and Land Preservation Act. The division also manages several loan and grant programs for local communities, local governments, state agencies, and private citizens. The programs include the state revolving fund, which at the end of FY 2008 included \$358 million loaned to communities for water and waste water systems, coal severance tax loans to governmental entities totaling \$36.3 million, and private loans for \$18.1 million. Grant programs administered by the division include the Reclamation Development, Renewable Resource, and Conservation District grant programs.

Program Highlights

Conservation and Resource Development Division	
Major Program Highlights	
<ul style="list-style-type: none"> ◆ The proposed biennial budget is 13 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments ◆ The executive requests a funding switch of state special revenue RIT funds for coal tax shared revenue funds ◆ One-time only general fund is being requested for the Montana rural water systems and conservation district grants ◆ Three language appropriations are requested to handle potential needs in the Coal Bed Methane Protection Program, the Safe Drinking Water Program, and the Renewable Resources Program 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The objectives provided do not allow for further review of progress toward the stated goal ◆ An update on the regional water system program may be needed to properly align resources to the program goals and objectives 	

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim

- Provide watershed (health) assistance to Conservation Districts and Watershed groups
 - Assist with the development, technical and financial assistance of watershed activities to address natural resource issues on a watershed basis.
 - Administer 15-20 watershed planning and assistance grants
 - Coordinate and participate in six watershed education events
 - Conduct three stream assessments or stream inventories
 - Conduct training workshops
- Assist the Yellowstone River Conservation District Council and the Missouri River Conservation District Council carry out plans to improve and protect Montana's largest rivers
 - Secure federal assistance as needed to meet work plan goals
 - Identify four river improvement projects seek funding and implement them
 - Assist in administration efforts such as contracting, financing and project implementation to implement projects
 - Attend technical advisory meetings and other meetings as needed to work on the projects

Results: These goals and objectives were last reviewed in October of 2007. At that time the division was able to provide a generic update regarding the progress toward the goals. The legislature may wish to request a report on the progress made in FY 2008.

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Provide assistance to Conservation Districts for operation, education, and effective management of local resources
 - Provide financial, administrative and educational assistance to conservation districts
 - Provide coordination assistance to conservation districts on rangeland and watershed activities
- Conserve, manage, preserve, and reclaim natural resource through public and private partners
 - Provide administrative, financial, and technical assistance to Renewable Resources
 - Provide assistance to indemnify the people of the state from the effects of mineral development

LFD ISSUE

Progress cannot be evaluated

The objectives to the goal provide the reader with an idea of what tasks are going to be completed, but do not provide any measurement or time criteria for evaluation of progress toward the goal. The division has ample data to demonstrate progress toward the goal and how the state is better off because of the objectives achieved. Such data could include the types of assistance provided to conservation districts, the value and number of grants and loans submitted for consideration, the acres of land improved due to funding, and the like. The legislature may wish to have a discussion with the division to select more appropriate objectives that will align with resource allocations for the 2011 biennium.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Conservation/Resource Dev Div						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 1,367,141	29.8%	\$ 1,519,369	28.3%	\$ 1,532,564	28.3%
01100 General Fund	1,367,141	29.8%	1,519,369	28.3%	1,532,564	28.3%
02000 Total State Special Funds	2,956,284	64.4%	3,561,439	66.2%	3,583,375	66.2%
02015 Tsep Regional Water System	648,293	14.1%	712,293	13.2%	712,293	13.2%
02052 Rangeland Improvement Loans	8,108	0.2%	9,108	0.2%	9,108	0.2%
02152 Wtr Pol. Ctrl Revolv Loan Acct	-	-	-	-	-	-
02223 Wastewater Srf Special Admin	-	-	-	-	-	-
02255 Srf Principal Sub Account	-	-	-	-	-	-
02270 Treasure State Endowment	28,000	0.6%	28,000	0.5%	28,000	0.5%
02316 Go94B/Ban 93D Admin	19,707	0.4%	22,873	0.4%	22,741	0.4%
02340 Coal Sev. Tax Shared Ssr	856,781	18.7%	1,750,936	32.6%	1,800,409	33.3%
02433 Grazing District Fees	15,333	0.3%	24,333	0.5%	24,333	0.4%
02447 Drinking Water 2005F Proceeds	-	-	-	-	-	-
02463 Wstwr Go 2005G Proceeds	-	-	-	-	-	-
02488 Drinking Water Loan Account	-	-	-	-	-	-
02489 Drinking Water Principal Acct	-	-	-	-	-	-
02490 Drinking Water Investment	-	-	200,000	3.7%	200,000	3.7%
02532 Ww Ran Proceeds	-	-	-	-	-	-
02533 Dw Ran Proceeds	-	-	-	-	-	-
02576 Natural Resources Operations Ssr Fu	1,328,062	28.9%	713,896	13.3%	686,491	12.7%
02619 Ww Ban Proceeds	-	-	-	-	-	-
02620 Dw Ban Proceeds	-	-	-	-	-	-
02694 Coal Bed Methane Protection	52,000	1.1%	100,000	1.9%	100,000	1.8%
02911 Cst 04B Proceeds-Nontax	-	-	-	-	-	-
02971 Srf Go Bond 2000F Tax Nps/Rcb	-	-	-	-	-	-
02991 Cst 2003A Nontax Proceeds	-	-	-	-	-	-
02996 Go 2003C Taxable Private Ref	-	-	-	-	-	-
03000 Total Federal Special Funds	265,949	5.8%	295,949	5.5%	295,949	5.5%
03014 Dw Srf Ffy05 Grant	-	-	-	-	-	-
03178 Res Dev & Cons - Fed	35,652	0.8%	35,652	0.7%	35,652	0.7%
03245 Wastewater Treatment Grant	105,295	2.3%	120,295	2.2%	120,295	2.2%
03442 Fy09 Exchange Network Grant	-	-	-	-	-	-
03457 Wpc Srf Fy03 Grant	-	-	-	-	-	-
03812 Epa 106 Water Grant	125,002	2.7%	140,002	2.6%	140,002	2.6%
Grand Total	\$ 4,589,374	100.0%	\$ 5,376,757	100.0%	\$ 5,411,888	100.0%

This program is primarily funded with general fund, resource indemnity trust (RIT) accounts, and coal severance taxes. The executive is seeking to decrease RIT funding and increase coal severance taxes in this division.

RIT funding is used to administer the Reclamation and Development Grants Program (RDGP) and the Renewable Resources Grant and Loan Program (RRGLP). The RDGP is a state-funded grant program that assists any department, agency, and division of state government, tribal government, board, or commission to indemnify the people of the state for the effects of mineral development on public resources. The RRGLP funds a variety of natural resource projects including groundwater studies, irrigation projects, water and soil conservation, and public wastewater projects, primarily through grants administered by the department. Coal severance tax is used to provide grants to conservation districts for natural resource related projects such as streambed stabilization, soil conservation, educational activities, and demonstrations of new technologies.

The Natural Resource Development Bureau utilizes one-third of the division general fund to administer grant and loan programs, provide assistance to conservation districts for the administration of water reservations, and assist landowners to develop new irrigation. The Conservation District Bureau utilizes just two-thirds of the available general fund to assist Montana conservation and grazing districts. The remaining program funding includes miscellaneous state special revenue, federal drinking water and water pollution control funds, and miscellaneous federal sources used to supplement division activities.

**LFD
ISSUE****Natural Resources Operations Funding**

The executive request contains a funding switch of \$686,383 in FY 2010 and \$734,415 in FY 2011 of natural resources operations funding for coal tax shared severance funds. The legislature may want to delay action on this budget until the RIT has been examined in its entirety. See the agency Summary under Funding for additional information regarding the natural resources operations fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	1,367,141	1,367,141	2,734,282	89.59%	4,589,374	4,589,374	9,178,748	85.08%
Statewide PL Adjustments	41,410	47,530	88,940	2.91%	102,905	110,466	213,371	1.98%
Other PL Adjustments	8,340	15,545	23,885	0.78%	582,000	609,700	1,191,700	11.05%
New Proposals	102,478	102,348	204,826	6.71%	102,478	102,348	204,826	1.90%
Total Budget	\$1,519,369	\$1,532,564	\$3,051,933		\$5,376,757	\$5,411,888	\$10,788,645	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					157,284					164,686
Vacancy Savings					(66,343)					(66,642)
Inflation/Deflation					5,663					6,453
Fixed Costs					6,301					5,969
Total Statewide Present Law Adjustments					\$102,905					\$110,466
DP 2301 - CARDD Operating Adjustment	0.00	8,340	22,660	30,000	61,000	0.00	15,545	43,155	30,000	88,700
DP 2302 - Montana Grass Conservation Commission (MGCC)	0.00	0	9,000	0	9,000	0.00	0	9,000	0	9,000
DP 2303 - Coal Bed Methane CD Administration	0.00	0	48,000	0	48,000	0.00	0	48,000	0	48,000
DP 2304 - Drinking Water Loan Assistance	0.00	0	200,000	0	200,000	0.00	0	200,000	0	200,000
DP 2305 - Regional Water Systems	0.00	0	64,000	0	64,000	0.00	0	64,000	0	64,000
DP 2307 - Conservation District Grants - OTO	0.00	0	200,000	0	200,000	0.00	0	200,000	0	200,000
Total Other Present Law Adjustments	0.00	\$8,340	\$543,660	\$30,000	\$582,000	0.00	\$15,545	\$564,155	\$30,000	\$609,700
Grand Total All Present Law Adjustments					\$684,905					\$720,166

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - Due to the large number of emergency hires within the department to address wildland fire season, there has been difficulty in calculating the market rate for 2008. The department is working with the LFD to remedy the situation and will provide that data to the committee
- **Vacancy** - The program has had little turnover. One administrative support position became vacant in FY 2008, but the program had no recruitment problems
- **Legislatively applied vacancy savings** - Discretionary funding within HB 13, and one open position made up the 4 percent required vacancy savings
- **Pay Changes** - One market adjustment was made with discretionary funds authorized in HB 13
- **Retirements** - Eleven employees, or 45 percent of the staff, will be eligible for full retirement in the 2011 biennium at an estimated cost of \$150,000
 - No employees retired in FY 2008, there is one possible retirement anticipated in FY2009, and potentially two retirements will occur during the 2011 biennium
 - Due to high retirement potential the division has started to cross train staff between the two major programs

DP 2301 - CARDD Operating Adjustment - The executive requests \$61,000 in FY 2010 and \$88,700 in FY 2011 of general, state special, federal special funds to restore the base budget due to increased rent, travel and supply costs, cleaning service fees, and increased contract workload in the loan and grant programs.

DP 2302 - Montana Grass Conservation Commission (MGCC) - This request is for \$9,000 of state special revenue each year of the biennium for executive director services, travel, supplies and materials, and other operating expenses of MGCC. The funding would come from grazing fees that are collected each year from grazing district members.

DP 2303 - Coal Bed Methane CD Administration - The executive is requesting \$48,000 per year state special revenue from the coal bed methane protection account. This funding would assist conservation districts with procedural development for evaluating claims under the coal bed methane protection program by July 1, 2011 and any claims for water losses.

**LFD
ISSUE****Progress Report**

The division expended \$52,000 of coal bed methane protection funding in FY 2008 to establish procedures for claims analysis as required in 76-15-905, MCA. There are currently eight districts that have water procedures in place, and are addressing any claims that may come in. This adjustment would re-establish the base at \$100,000 and provide funding to develop new procedures to address coal bed methane damages for non-emergent. This could range from loss of production to a claim that a person's property value has decreased from coal bed methane development. The funding would be used for staff time, travel, attorney fees, contractors etc. The legislature may wish to inquire as to when these procedures will be completed and distributed.

DP 2304 - Drinking Water Loan Assistance - The executive recommends \$200,000 of state special revenue each year of the 2011 biennium to match federal authority for hardship communities in the Safe Drinking Water program. This would allow the state to provide assistance to disadvantaged communities who borrow from the program. The funding is from the interest derived from the investments of the revolving fund.

**LFD
COMMENT**

This would restore the budget to the base level of \$200,000. The program did not provide any assistance to communities in FY 2008.

DP 2305 - Regional Water Systems - This budget request is for \$64,000 per year of state special revenue funds to increase base expenditures for the continued development of Dry Prairie, Dry Red Water, Central Montana, and North Central Regional Water Systems. This would provide resources to maintain local support, work toward securing federal assistance, and negotiate needed agreements.

**LFD
ISSUE**
Program Goals & Objectives

Regional water systems are proposed to build infrastructure to bring clean drinking water and livestock water to rural Montana. There are four systems under development and each is at a different phase of the process. The Dry Prairie and North Central systems have completed engineering, received some federal appropriations, and started early work. Even with this activity completion is not expected on either system for at least another decade. The Central and Red Water systems are newer and are in the engineering phase. The department provides technical support and serves as a liaison to the federal partners for these projects.

The program is funded with coal tax bond proceeds set aside in statute for this purpose. The legislature has provided for increases to the regional water system program for the last two biennia. This request would raise the budget an additional 10 percent and does not delineate which system will receive funding. The division did not provide any goals and objectives in relation to this program that may aid in making appropriation decisions. The legislature may wish to have a discussion regarding the purpose of this funding, where the funding will go, and how the program measures its success prior to appropriating additional resources.

DP 2307 - Conservation District Grants - OTO - The executive requests one-time-only state special revenue authority of \$200,000 each year of the biennium. The funding is from the coal severance tax shared account which is statutorily designated for libraries, conservation districts, and Growth Through Agriculture. Funds would be used for grants to local conservation districts.

**LFD
COMMENT**

The coal tax shared revenue fund is statutorily designated for libraries, conservation districts, and the Growth Through Agriculture program. The Growth Through Agriculture program funds grants and operations of the Agriculture Development Council which is administratively attached to the Department of Agriculture. The figure below summarizes the condition of the fund.

Department of Natural Resources and Conservation				
Coal Tax Shared State Special Revenue				
	FY 2008	FY 2009	FY 2010	FY 20121
Beginning Balance	\$251,805	\$942,933	\$1,708,969	\$1,701,284
<u>Expenditures</u>				
Montana State Library - base	550,007	550,007	550,007	550,007
Montana State Library - OTO	0	0	200,000	200,000
Natural Resources & Conservation - base	866,781	866,779	1,560,936	1,610,409
Natural Resources & Conservation OTO	0	0	200,000	200,000
Agriculture - base	371,742	614,368	538,476	509,494
Agriculture - OTO	0	0	300,000	300,000
Total Expenditures	1,788,530	2,031,154	3,349,419	3,369,910
Revenues	2,479,658	2,797,190	2,641,734	2,660,793
Ending Fund Balance	\$942,933	\$1,708,969	\$1,701,284	\$1,692,167

The executive has included \$1.4 million of one-time-only requests from this fund. These requests are for grants to local libraries, conservation districts, and programs within the university system as well as a software purchase. These one-time-only requests would significantly reduce the fund balance in the account. The fund remains structurally balanced as the ongoing expenditures do not exceed the projected revenues

**LFD
ISSUE****Purpose of the Grants**

Statute allows the use of the coal severance tax shared fund for conservation districts. The department is proposing to utilize the one-time only authority for projects directed toward improving water quality and land restoration. This type of activity may not be completed in one biennium. The legislature may wish to discuss with the program how the agency will assure that grants are provided for one-time costs only.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2306 - Montana Rural Water Systems (Bien/OTO)										
23	0.00	101,500	0	0	101,500	0.00	101,500	0	0	101,500
DP 2308 - State Special Revenue Funding Switch										
23	0.00	0	0	0	0	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Management Program Allocat										
23	0.00	978	0	0	978	0.00	848	0	0	848
Total	0.00	\$102,478	\$0	\$0	\$102,478	0.00	\$102,348	\$0	\$0	\$102,348

DP 2306 - Montana Rural Water Systems (Bien/OTO) - The executive requests \$203,000 one-time-only general fund for the support of Montana Rural Water Systems (MRWS). MRWS provides assistance to small regional water systems to meet requirements of the safe drinking water act and the state non-degradation rule. This appropriation would be offset by federal funds if they became available. (See language appropriation section)

**LFD
ISSUE****Adequate technical assistance to water systems**

The Department of Environmental Quality (DEQ) has oversight responsibility of the development and operation of public water supplies. The quality of this oversight was recently questioned by the Environmental Protection Agency who partners with the department to assure adequate implementation of the Safe Drinking Water Act (SDWA). The executive biennial request includes \$2.0 million general fund to increase staffing at DEQ to improve the compliance with the SDWA. (See Department of Environmental Quality, Permitting and Compliance Division narrative for further information.)

The executive is requesting this appropriation authority to provide technical assistance to smaller water systems to assure compliance with the SDWA. If DEQ is tasked with improving compliance, the amount of technical assistance to smaller systems may increase. The legislature may wish to discuss with the program the level of assistance that is needed to assure that smaller systems meet the requirements of the SDWA.

Comment: A similar appropriation was provided in HB 2 by the 2007 Legislature. Unlike this request, that appropriation was also restricted for the specific use. Since there is a potential offset of the appropriation with federal funding, the legislature may wish to restrict this appropriation also. The division expended \$193,000 for this purpose in FY 2008.

DP 2308 - State Special Revenue Funding Switch - This request includes a funding switch of \$686,383 in FY 2010 and \$734,415 in FY 2011 from the natural resources operations fund to the coal severance tax shared fund. The request is required in order to balance available resources within the operations fund.

**LFD
COMMENT**

The natural resources operation account is a Resource Indemnity Trust (RIT) funded account. Please see the RIT discussion in the agency narrative. The table outlining the coal tax shared revenue fund follows DP 2307 in the present law section.

DP 6101 - Fixed Cost Workers Comp Management Program Allocate - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Language and Statutory Authority

"The department is appropriated up to \$600,000 for the 2011 biennium from the state special revenue account established in 85-1-604, MCA, for the purchase of prior liens on property held as loan security as required by 85-1-618, MCA."

"The department is authorized to decrease federal special revenue in the Pollution Control and/or Drinking Water Revolving Fund Loan programs and increase state special revenue by a like amount within the special administration account when the amount of federal EPA CAP funds has been expended or federal funds and bond proceeds will be used for other program purposes."

**LFD
ISSUE**

"For other program purposes"

The phrase 'for other program purposes' may allow the agency greater discretion to use the funds than the legislature would like to allow. The legislature may wish to consider replacing that phrase with; 'used for other purpose as authorized in law providing for the distribution of funds'.

"There is appropriated up to \$1 million of state special revenue for the 2011 biennium from the coal bed methane account to fund potential landowner or water right holder claims for emergency loss of water related to coal bed methane development."

"If Montana Rural Water Systems receives federal funding during the 2011 biennium, Montana Rural Water Systems (BIEN/OTO) is reduced by a like amount."

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	157.00	157.00	162.00	162.00	157.00	162.00	5.00	3.18%
Personal Services	8,634,298	9,370,069	9,814,106	9,850,386	18,004,367	19,664,492	1,660,125	9.22%
Operating Expenses	2,915,678	3,174,036	3,392,338	3,452,132	6,089,714	6,844,470	754,756	12.39%
Equipment & Intangible Assets	103,602	672	103,602	111,902	104,274	215,504	111,230	106.67%
Capital Outlay	3,000	3,000	3,000	3,000	6,000	6,000	0	0.00%
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	378,960	469,744	469,744	469,744	848,704	939,488	90,784	10.70%
Total Costs	\$12,035,538	\$13,017,521	\$13,782,790	\$13,887,164	\$25,053,059	\$27,669,954	\$2,616,895	10.45%
General Fund	7,518,992	8,127,033	8,666,408	8,724,553	15,646,025	17,390,961	1,744,936	11.15%
State Special	4,378,928	4,686,967	4,946,470	4,992,675	9,065,895	9,939,145	873,250	9.63%
Federal Special	137,618	203,521	169,912	169,936	341,139	339,848	(1,291)	(0.38%)
Total Funds	\$12,035,538	\$13,017,521	\$13,782,790	\$13,887,164	\$25,053,059	\$27,669,954	\$2,616,895	10.45%

Program Description

The Water Resources Division is responsible for many programs associated with the uses, development, and protection of Montana's water. The division manages and maintains the state-owned dams, reservoirs, and canals; develops and recommends in-state, interstate, and international water policy to the director, Governor, and legislature; administers the Dam Safety, Floodplain Management, and Water Management programs; provides support to the Board of Water Well Contractors; assists the Water Court with the adjudication of pre-July 1, 1973 water rights; administers applications for new water rights, changes in historic water rights and ownership updates; and is responsible for maintaining centralized water rights records. The division consists of an administration unit and five bureaus: Water Management Bureau, Water Rights Bureau, Water Adjudication Bureau, State Water Projects Bureau, and the Water Operations Bureau. In addition, the Flathead Basin Commission is administratively attached to the department.

Program Highlights

Water Resources Division Major Program Highlights	
♦	The proposed biennial budget is 10 percent higher than the 2009 biennial budget primarily due to statewide present law adjustments, and annualization of the compact implementation bureau
♦	One-time only requests for water projects rehabilitation totals \$614,000
♦	Language appropriations are requested to address potential emergency needs of state water projects
Major LFD Issues	
♦	The water adjudication fund may be over appropriated
♦	The submitted objectives for water adjudication may not conform with statute or the constitution
♦	Funding for state dam rehabilitation belongs in HB 5, the long range building program

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim.

- Protect Montana's water from external threats through international and multi-state compacts
-

Successes:

- The MT/Alberta memo of understanding was signed Oct 29, 2007 and implementation of the MOU is beginning

Challenges:

- Greater equity in the apportionment of the St. Mary / Milk River System allocated under the 1909 Boundary Waters Treaty and the 1921 Order of the International Joint Commission
- Protection of the water quality in North Fork of the Flathead River
- Allocation of Hungry Horse water to assure a future water supply for Western Montana communities and residents

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

- Promote and coordinate the wise use and conservation of Montana's water resources for current and future generations
 - Water Rights: Improve the efficiency and accuracy of water right processing and accelerate the statewide adjudication
 - State Projects: Manage dams to maximize economic and water use benefits while maintaining to protect public health and safety
 - Water Management: Provide the information needed to make informed water resource allocation and management decisions
 - Water Operations: Develop efficient and effective methods and procedures to communicate with program clients

LFD ISSUE

Given the provided objectives, it is not possible to determine if progress toward the goal is being achieved or if any of the programs are achieving success. In fact, the inability to determine success leaves the reader wondering if the program can meet the constitutional requirements of administration, control, and regulation of water rights. Furthermore, the executive is seeking a \$27.7 million biennial appropriation to manage all water issues of this state based on these objectives.

In addition, water adjudication requirements are detailed in statute (81-2-271, MCA), and the division had previously demonstrated its ability to develop appropriate objectives based on those that were provided to the legislature for the 2009 biennium. The legislature may wish to discuss with the division how the presented goals and objectives provide the framework for determining success in achieving constitutional and statutory requirements.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Water Resources Division							
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011	
01000 Total General Fund	\$ 7,518,992	62.5%	\$ 8,666,408	62.9%	\$ 8,724,553	62.8%	
01100 General Fund	7,518,992	62.5%	8,666,408	62.9%	8,724,553	62.8%	
02000 Total State Special Funds	4,378,928	36.4%	4,946,470	35.9%	4,992,675	36.0%	
02145 Broadwater O & M	515,926	4.3%	527,980	3.8%	527,512	3.8%	
02146 Broadwater Irrigation	-	-	-	-	-	-	
02147 Broadwater R & R	-	-	40,000	0.3%	40,000	0.3%	
02177 Cst 90 A Fisheries Mitigation	-	-	-	-	-	-	
02216 Water Storage St Sp Rev Acct	-	-	267,500	1.9%	267,500	1.9%	
02351 Water Project Lands Lease Acct	9,203	0.1%	10,843	0.1%	10,863	0.1%	
02404 Water Project Loans	217,422	1.8%	308,206	2.2%	308,206	2.2%	
02430 Water Right Appropriation	977,798	8.1%	864,674	6.3%	895,006	6.4%	
02431 Water Adjudication	2,240,386	18.6%	2,451,438	17.8%	2,467,534	17.8%	
02470 State Project Hydro Earnings	161,538	1.3%	161,538	1.2%	161,538	1.2%	
02576 Natural Resources Operations Ssr Fu	210,376	1.7%	228,221	1.7%	228,423	1.6%	
02825 Water Well Contractors	46,279	0.4%	86,070	0.6%	86,093	0.6%	
03000 Total Federal Special Funds	137,618	1.1%	169,912	1.2%	169,936	1.2%	
03034 Yellowstone Groundwater Nps	29,474	0.2%	30,000	0.2%	30,000	0.2%	
03094 Fema Federal Grants	108,144	0.9%	139,912	1.0%	139,936	1.0%	
Grand Total	\$ 12,035,538	100.0%	\$ 13,782,790	100.0%	\$ 13,887,164	100.0%	

The Water Resources Division is predominantly funded with general fund and state special revenue, with a minor amount of federal revenue. Sources and purposes of state special revenue include:

- o Water storage account funded by direct allocation of RIT interest and revenue from water purchase contracts for the purpose of construction, operation, maintenance, and rehabilitation of state water storage projects
- o Water rights fees derived from fees collected to record rights to support water rights management
- o Funds set aside for water adjudication
- o Income derived from state owned hydroelectric projects for repair and rehabilitation of state owned water projects
- o Fees from water well contractors that support the Board of Water Well Contractors

General fund is utilized for personal services, general operating costs, and specific activities such as preparing for water litigation and map modernization. Federal funds are from Federal Emergency Management Agency (FEMA) grants and the Bureau of Reclamation.

LFD ISSUE

Water Adjudication Fund Appropriation Limits

The legislature established in statute a limit on expenditures for the Water Adjudication Program from FY 2006 through FY 2015. The intent of this limitation was to allow for the fund to be used for adjudication activities and to provide resources for the five years of estimated water court work after the on-the-ground portion has been completed.

Figure 5 below provides a summary of the water adjudication fund and the changing fund balance. Figure 6 compares the actual, appropriated, and requested amounts with the statutory limit that has been inflated 3 percent per year. The statutory limit is exceeded in FY 2008 through FY 2011. The cumulative affects are not negative until FY 2009 due to the expenditure levels in FY 2006 and FY 2007 being less than the statutory amount.

**LFD
ISSUE
(Cont.)**

Figure 5

Department of Natural Resources and Conservation
Water Adjudication Fund (02431)

	Actual FY 2008	Appropriated FY 2009	Executive Request	
			FY 2010	FY 2011
Beginning Balance	\$408,672	\$25,312,650	\$23,368,757	\$21,300,873
Expenditures				
Judiciary - Water Court	515,335	559,874	556,491	559,569
DNRC - Water Resources	2,240,386	2,605,671	2,451,438	2,467,534
DNRC - Centralized Services	28,350	28,393	85,000	85,000
Total Expenditures	<u>\$2,784,071</u>	<u>\$3,193,938</u>	<u>\$3,092,929</u>	<u>\$3,112,103</u>
Revenues	27,688,560	1,250,045	1,025,045	1,275,045
Adjustments	(511)			
Ending Fund Balance	<u>\$25,312,650</u>	<u>\$23,368,757</u>	<u>\$21,300,873</u>	<u>\$19,463,815</u>

Figure 6

Department of Natural Resources & Conservation
Water Adjudication Fund Statutory Limit and Disbursements

Fiscal Year	Limit	Disbursements	Difference	Cummulative
2011	\$3,014,113	3,112,103	(\$97,990)	(\$120,591)
2010	\$2,926,323	3,092,929	(\$166,606)	(\$22,601)
2009	\$2,841,090	3,193,938	(\$352,848)	\$144,005
2008	\$2,758,340	2,784,071	(\$25,731)	\$496,853
2007	\$2,678,000	2,437,545	\$240,455	\$522,584
2006	\$2,600,000	2,317,871	\$282,129	\$282,129

The issue for the legislature is whether the proposed executive budget will negatively impact the ability to fund the water court after on the ground work is completed. The impact would be mitigated if all appropriation authority is not used or if interest on the fund exceeds the anticipated estimate. If the legislature wishes to meet statutory limits, appropriations from the fund would need to be reduced by \$166,606 in FY 2010 and by \$97,990 in FY 2011. By proportion that would be 82 percent from this department and 18 percent from the water court.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	7,518,992	7,518,992	15,037,984	86.47%	12,035,538	12,035,538	24,071,076	86.99%
Statewide PL Adjustments	588,204	607,585	1,195,789	6.88%	882,467	918,865	1,801,332	6.51%
Other PL Adjustments	552,907	592,510	1,145,417	6.59%	550,980	619,795	1,170,775	4.23%
New Proposals	6,305	5,466	11,771	0.07%	313,805	312,966	626,771	2.27%
Total Budget	\$8,666,408	\$8,724,553	\$17,390,961		\$13,782,790	\$13,887,164	\$27,669,954	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----					-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,201,899					1,239,565
Vacancy Savings					(393,449)					(394,960)
Inflation/Deflation					40,965					45,522
Fixed Costs					33,052					28,738
Total Statewide Present Law Adjustments					\$882,467	\$918,865				
DP 2402 - Water Resources Operating Adjustment										
	0.00	47,110	119,997	0	167,107	0.00	94,220	149,209	0	243,429
DP 2403 - Community Assistance Program Federal										
	0.00	0	0	50,000	50,000	0.00	0	0	50,000	50,000
DP 2404 - Reserved Water Rights Implementation										
	5.00	505,797	0	0	505,797	5.00	498,290	0	0	498,290
DP 2451 - Water Rights Adjustment										
	0.00	0	(171,924)	0	(171,924)	0.00	0	(171,924)	0	(171,924)
Total Other Present Law Adjustments										
	5.00	\$552,907	(\$51,927)	\$50,000	\$550,980	5.00	\$592,510	(\$22,715)	\$50,000	\$619,795
Grand Total All Present Law Adjustments					\$1,433,447	\$1,538,660				

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – Due to the large number of emergency hires within the department to address wildland fire season, there has been difficulty in calculating the market rate for 2008. The department is working with the LFD to remedy the situation and will provide the data to the committee
- **Vacancy** –
 - Water resource specialists, particularly for the Water Adjudication Program, has had the most turnover. Many employees have moved to other positions within the agency
 - The division has been working with the College of Technology in Helena to establish classes for a Water Resource Specialist certification. The agency pays for tuition and books for existing employees if they maintain a C average or above
 - There has been some back-log in work with some overtime and comp time accrued. Lower priority issues have been pushed back. High priority work has been re-distributed to other staff
- **Legislatively applied vacancy savings** – In FY 2008 vacancies made up the 4 percent required vacancy savings for the division
- **Pay Changes** – Additional vacancy savings attained was utilized to bring several water resource specialist positions up to 92 percent market
- **Retirements** -
 - There are 30 employees, 20 percent of the division, that will have 30 or more years of service in the 2011 biennium or be age 60 or older with 5 years or more of service. The estimated cost for these employees is \$403,000
 - To date in the 2009 biennium, the Water Resources Division has had five staff retire. Termination payouts in FY 2008 totaled slightly over \$65,000. Two more may retire before the end of the 2009 biennium
 - There are three employees who are considering retirement in the 2011 biennium

DP 2402 - Water Resources Operating Adjustment - This budget request is for \$167,107 in FY 2010 and \$243,429 in FY 2011 of general, state special, and federal special funds. This would restore funding for zero-based overtime, contract services, supplies, copier and computer replacements, debt service, rent increases, and other equipment replacement.

**LFD
COMMENT**

The two largest increases are for contracted services and debt service. The contracted service request is for \$44,442 in FY 2010 and \$94,807 in FY 2011 to provide for:

- \$1,800 in the contract with a private vendor to provide storage, filing, and file retrieval of water right files
- \$73,018 for ITSD charges for data storage
- \$38,765 for the 50 percent state share of the federal U.S. Geological Survey cooperative stream gauging program in Montana
- \$10,000 to fund the Crown Management Partnership agreement with the Province of Alberta
- Annualization of other contracted costs

The debt service request is for \$90,784 year of the biennium for repayment of the federal loan for rehabilitation on the Middle Creek Dam.

DP 2403 - Community Assistance Program Federal - This federal special revenue request is for \$100,000 in authority for the 2011 biennium for the annual award of funds from the Federal Emergency Management Agency (FEMA). The primary purpose of the award is to reduce the damage claims to the National Flood Insurance program through education and training.

**LFD
COMMENT**

The division indicates that a 0.5 modified FTE may be requested to assist in education and training. The modified FTE would need to be approved by the Governor's budget office during the interim and re-established during the 2011 legislative session if the position were to become permanent.

DP 2404 - Reserved Water Rights Implementation - The executive requests 5.0 FTE and \$505,797 in FY 2010 and \$498,290 in FY 2011 of general fund to establish the base for the Water Compact Implementation Bureau. The 2007 Legislature approved a transfer of authority from the Reserved Water Rights Compact Commission (RWRCC) to the Water Resources Division to dissolve the commission and to provide for implementation activities in the last half of FY 2009. To annualize the costs, a base adjustment is necessary.

**LFD
ISSUE****One-time Costs**

The RWRCC is scheduled to sunset on July 1 2009. The executive is requesting to retain a portion of the staff to work on compact implementation. This package funds the 5.0 FTE and operations costs with general fund. Included in this decision package are one-time costs of \$7,120 to move the 5.0 FTE from the RWRCC in with Water Resources Divisions, as well as signage, telephone access, and minor furnishings. These costs would remain in the base unless the legislature segregated them into a one-time only decision package.

**LFD
COMMENT**

The 2007 legislature transferred \$246,550 for the second half of FY 2009. Double the amount would be \$493,100. With inflationary factors the request appears to be reasonable.

**LFD
COMMENT**

This decision package will need to be coordinated with any legislation that extends the sunset date on the commission.

DP 2451 - Water Rights Adjustment - This request is to reduce Water Rights Bureau funding by \$171,924 per year of state special revenue. The Water Rights Ownership Project was a one-time cost and does not need to be carried forward in the base budget.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2401 - State Water Projects Rehabilitation-BIEN-OTO										
24	0.00	0	307,500	0	307,500	0.00	0	307,500	0	307,500
DP 6101 - Fixed Cost Workers Comp Management Program Allocation										
24	0.00	6,305	0	0	6,305	0.00	5,466	0	0	5,466
Total	0.00	\$6,305	\$307,500	\$0	\$313,805	0.00	\$5,466	\$307,500	\$0	\$312,966

DP 2401 - State Water Projects Rehabilitation-BIEN-OTO - The executive recommends a one-time-only biennial appropriation of \$615,000 in state special revenue for rehabilitation work to bring the Deadman's Basin outlet extension in compliance with dam safety standards, repair Middle Creek railing for public safety concerns, and for ongoing repairs at the Broadwater-Toston Dam.

LFD ISSUE

Capital Costs are included in this request

In examination of the details of the request, it appears that the Deadman's Basin and Middle Creek projects should be considered as part of HB 5 and not HB 2. Unlike HB 2 authority, HB 5 authority continues from biennium to biennium to allow for major projects to be completed.

The summary of the projects is as follows:

- ◆ Deadman's Basin outlet extension project includes extending the low level outlet to flatten the downstream dam face; installing a filter and drain system to deal with excessive seepage exiting at the existing outlet; and placing a stability berm on the downstream toe to bring the project into dam safety slope stability guidelines.
- ◆ Middle Creek Railing Repairs are a result of the 1992 rehabilitation at Middle Creek, when part of the modifications included a hand rail or safety fence across the dam crest. The fence posts and rails have failed and need to be modified and repaired.
- ◆ The Broadwater-Toston request is for ongoing repairs due to standard design life issues and is appropriately funded in HB2.

The legislature may wish to consider notifying the Long Range Building Committee of the need to include dam repair funding in HB 5 and approve only a portion (\$40,000 per year) of this decision package associated with the Broadwater-Toston routine repairs.

DP 6101 - Fixed Cost Workers Comp Management Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Language and Statutory Authority

“During the 2011 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.”

“During the 2011 biennium, up to \$100,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.”

“During the 2011 biennium, up to \$500,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.”

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	7.50	7.50	0.00	0.00	7.50	0.00	(7.50)	(100.00%)
Personal Services	588,760	413,199	30,000	0	1,001,959	30,000	(971,959)	(97.01%)
Operating Expenses	129,537	53,850	0	0	183,387	0	(183,387)	(100.00%)
Total Costs	\$718,297	\$467,049	\$30,000	\$0	\$1,185,346	\$30,000	(\$1,155,346)	(97.47%)
General Fund	718,297	467,049	30,000	0	1,185,346	30,000	(1,155,346)	(97.47%)
Total Funds	\$718,297	\$467,049	\$30,000	\$0	\$1,185,346	\$30,000	(\$1,155,346)	(97.47%)

Program Description

The Montana Reserved Water Rights Compact Commission (RWCC) was created by the legislature in 1979 as part of the state-wide water rights adjudication effort. 85-2-701 et seq. It consists of four members appointed by the Governor, two by the President of the Senate, two by the Speaker of the House of Representatives, and one by the Attorney General. Members serve for four years. The commission negotiates water rights with the Indian tribes and federal agencies, which claim federal reserved water rights within the state, to establish a formal agreement (compact) on the amount of water to be allocated to each interest. The Commission is scheduled to sunset on July 1, 2009. After the sunset, any compacts that are not complete will be litigated.

Program Highlights

Reserved Water Rights Compact Commission Major Program Highlights	
♦	The budget request reflects that the commission is scheduled to sunset on July 1, 2009
♦	The executive is requesting \$30,000 general fund for employee pay outs
Major LFD Issues	
♦	This budget request will require coordination with any successful legislation that extends the sunset date of the commission

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim.

- Transition plan for RWCC from negotiation to implementation
 - The Commission intends to develop an implementation plan to address work load changes and potential statutory changes
 - Develop a budget proposal as necessary to support the implementation plan

Success: Five FTE are included in the DNRC Water Resources Division budget for the next biennium as the Compact Implementation Bureau. The duties of the staffs are generally described in the goal. New position descriptions will be developed as the transition begins to take place. "Housekeeping" legislation is being drafted to implement the sunset provisions in statute.

Challenges: The status of the remaining major negotiation with the Confederated Salish Kootenai Tribes (CSKT) of the Flathead Reservation is continually being monitored to evaluate whether a compact will be completed by June 30, 2009 or whether the RWRCC will need additional time to complete negotiations.

**LFD
COMMENT**

The legislature may wish to inquire about the current status of negotiation with the CSKT to determine if the RWCC or the Water Resources Division budget will need to be revised.

2011 Biennium Major Goals

The RWCC did not submit goals and objectives as it is scheduled to sunset on July 1, 2009,

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Reserved Water Rights Comp Com				
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010
01000 Total General Fund	\$ 718,297	100.0%	\$ 30,000	100.0%
01100 General Fund	718,297	100.0%	30,000	100.0%
Grand Total	718,297	100.0%	30,000	100.0%

The commission is funded with general fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	718,297	718,297	1,436,594	4,788.65%	718,297	718,297	1,436,594	4,788.65%
Statewide PL Adjustments	3,022	7,400	10,422	34.74%	3,022	7,400	10,422	34.74%
Other PL Adjustments	(691,319)	(725,697)	(1,417,016)	(4,723.39)%	(691,319)	(725,697)	(1,417,016)	(4,723.39)%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$30,000	\$0	\$30,000		\$30,000	\$0	\$30,000	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2010-----					-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				26,314					30,603
Vacancy Savings				(24,604)					(24,774)
Inflation/Deflation				1,312					1,571
Total Statewide Present Law Adjustments				\$3,022					\$7,400
DP 2501 - Reserved Water Rights Compact Commission Sunset									
(7.50)	(691,319)	0	0	(691,319)	(7.50)	(725,697)	0	0	(725,697)
Total Other Present Law Adjustments									
(7.50)	(\$691,319)	\$0	\$0	(\$691,319)	(7.50)	(\$725,697)	\$0	\$0	(\$725,697)
Grand Total All Present Law Adjustments				(\$688,297)					(\$718,297)

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - Due to the large number of emergency hires within the department to address wildland fire season, there has been difficulty in calculating the market rate for 2008. The department is working with the LFD to remedy the situation and will provide that data to the committee
- o **Vacancy** - The program has had little turnover
- o **Legislatively applied vacancy savings** - One vacant attorney position within the program made up the 4 percent required vacancy savings
- o **Pay Changes** - Discretionary funds authorized in HB 13 were utilized for one market adjustment
- o **Retirements** - Four employees will be eligible for full retirement in the 2011 biennium at an estimated cost of \$70,000

DP 2501 - Reserved Water Rights Compact Commission Sunset - The Reserved Water Rights Compact Commission (RWRCC) will sunset July 1, 2009 and an implementation bureau will be created in the Water Resources Division. This budget request is for the reduction due to the sunset and removes 7.50 FTE and \$691,319 in FY 2010 and \$725,697 in FY 2011.

LFD COMMENT

The funding for the implementation bureau was established during the 2007 legislative session. That funding will cover the 5.0 FTE for implementation work for the remainder of FY 2009. The base adjustments in the Water Resources Division would be necessary to continue the funding for the bureau through FY 2011.

This decision package will need to be coordinated with any legislation that extends the sunset of the Commission.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	293.37	293.37	305.19	305.19	293.37	305.19	11.82	4.03%
Personal Services	15,415,265	16,531,333	17,225,441	17,286,880	31,946,598	34,512,321	2,565,723	8.03%
Operating Expenses	6,768,623	7,519,652	8,311,664	8,376,432	14,288,275	16,688,096	2,399,821	16.80%
Equipment & Intangible Assets	1,014,138	989,435	1,071,448	1,071,107	2,003,573	2,142,555	138,982	6.94%
Capital Outlay	66,788	122,118	66,788	66,788	188,906	133,576	(55,330)	(29.29%)
Grants	184,491	184,491	184,491	184,491	368,982	368,982	0	0.00%
Transfers	959,895	977,351	1,218,390	1,228,444	1,937,246	2,446,834	509,588	26.30%
Debt Service	8,323	6,760	8,323	8,323	15,083	16,646	1,563	10.36%
Total Costs	\$24,417,523	\$26,331,140	\$28,086,545	\$28,222,465	\$50,748,663	\$56,309,010	\$5,560,347	10.96%
General Fund	8,864,201	9,236,242	10,435,375	10,509,896	18,100,443	20,945,271	2,844,828	15.72%
State Special	14,304,681	15,808,395	16,333,878	16,392,947	30,113,076	32,726,825	2,613,749	8.68%
Federal Special	1,248,641	1,286,503	1,317,292	1,319,622	2,535,144	2,636,914	101,770	4.01%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$24,417,523	\$26,331,140	\$28,086,545	\$28,222,465	\$50,748,663	\$56,309,010	\$5,560,347	10.96%

Program Description*Forestry Division*

The Forestry Division is responsible for planning and implementing forestry programs statewide. Forestry responsibilities include protecting natural resources from wildfire, regulating forest practices, and providing a variety of services to private forest landowners. Specific programs include:

- o Fire and Aviation Management - Protecting 50 million acres of state and private forest and watershed lands from wildfire through a combination of direct protection and county support
- o Forest Practice Regulation - Enforcing Montana's streamside management zone regulations and monitoring the voluntary best management practices program on all forests in Montana
- o Administering Montana Fire Hazard Reduction Law - Ensuring that the fire hazard created by logging and other forest management operations on private forest lands is adequately reduced, or that additional fire protection is provided until the hazard is reduced
- o Providing Forestry Services - Providing technical forestry assistance to private landowners, businesses, and communities
- o Tree and Shrub Nursery - Growing and selling seedlings for conservation and reforestation plantings on state and private lands in Montana

Trust Land Management

The Trust Land Management Division is responsible for managing Montana's trust land resources to provide revenues to the trust beneficiaries while considering environmental factors and protecting future income generating capacity of the land. These lands currently total 5.2 million surface acres, 6.2 million mineral acres, and approximately 6,000 miles (40,000+ acres) of the beds of navigable waterways. The division provides this through four primary programs: 1) forest management; 2) agriculture and grazing management; 3) special use management; and 4) minerals management.

Program Highlights

Forestry and Trust Land Administration Division Major Budget Highlights	
♦	The proposed biennial budget is 11 percent higher than the 2009 biennial budget primarily due to statewide present law adjustments, increases for fire and aviation resources, and contract timber harvesting
	One-time only costs for information technology needs total \$213,000
	Both proprietary programs are requesting additional FTE
Major LFD Issues	
♦	Fire protection costs should be funded at 1/3 forest assessments and 2/3 general fund

Program Narrative*2009 Biennium Monitored Goals and Objectives*

The Legislative Finance Committee selected the following goals to monitor during the 2009 interim

Forestry Division

- Administer Montana forest practice laws and programs to protect soil and water quality following logging operations on private lands
 - Open and administer Hazard Reduction Agreements (HRAs)
 - Offer educational workshops (monitor number of workshops and training sessions)
 - Enforce streamside management zones (certify compliance and produce report)
 - Coordinate best management practice audit process

Success: The last report on this goal was in December of 2007. At that time the agency was able to communicate results from completed activities. The legislature may wish to obtain an update.

Trust Land Management

- Maximize annual gross revenues for the trust beneficiaries from existing trust land management activities, including agriculture and grazing management, mineral development, forest management, and real estate management, while also implementing new and alternative methods of revenue generation from land management

Success:

- FY08 Approximate Gross Revenue - Total \$81 million
 - Agriculture and Grazing Management \$19.9 million
 - Recreational Use \$1.0 million
 - Forest Management – Timber Sales \$10.0 million
 - Forest Improvement Collections \$1.1 million
 - Minerals Management
 - Oil & Gas \$31.3 million
 - Aggregate Minerals \$174 thousand
 - Coal \$5.9 million Other Minerals \$86 thousand
 - Real Estate Management
 - Rights-of-Way/Easements \$2.1 million

- Residential leases/licenses \$1.5 million
- Land Sales \$2.8 million
- Commercial leases/licenses \$980 thousand
- Conservation leases \$101 thousand
- Hydropower lease \$4 million

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

Forestry Division

- Ensure sustainability of Montana forests, rural lands, and communities through cooperative wildland fire protection, sound forest management practices, and by promoting a viable forest economy
 - Provide forest stewardship assistance to private forest landowners and communities
 - Provide information, education, products, and funding for sustainable resource management to landowners and organizations
 - Make agreements to reduce the fire hazard posed by timber slash from all logging operations on private land in Montana and certify compliance with slash standards
 - Enforce the state slash law in cases of non-compliance

LFD ISSUE

Objectives cannot provide measure of success

The objectives provide an insight to the reader of what the goal is to accomplish. However, they are not specific, time oriented, or measureable. These types of objectives cannot aid in determining if progress toward the goal has been made. The objectives should be drafted so that the reader can make a determination about what success would be. Simply saying “coordinate” or “develop” or “increase” doesn’t imply that anything will get accomplished during the biennium or ever.

Trust Land Management Division

- Manage surface and mineral resources to provide substantial levels of trust revenue, stewardship, and public benefits consistent with our fiduciary duty and legal commitments
 - Utilize land banking to identify poorly performing properties while acquiring accessible, higher revenue-producing properties (20,000 acres). Sell 20,000 acres of trust land
 - Participate fully in oil and natural gas development in eastern Montana
 - Consider marketing timber sales to maximize price (size of sales, timing of sales, location, and timely salvage of burned timber)
 - Implement the Whitefish Plan and seek out other conservation leasing/easement opportunities
 - Secure permanent access to trust lands – 10,000 tributary acres

LFD ISSUE

Some objectives cannot provide measure of success

The objectives provide an insight to the reader of what the goal is to accomplish. However the middle three are not specific, time bound, or measureable. These types of objectives cannot aid in determining if progress towards the goal has been made. If the goal is to provide levels of trust revenue, what does participate fully in oil and gas development really mean? Should revenues rise by a percentage or lease sales increase? The objectives should be drafted so that the reader can make a determination about what success would be. Simply saying “consider”, “implement” or participate” doesn’t imply that anything will get accomplished during the biennium or ever.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table							
Forestry/Trust Lands							
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011	
01000 Total General Fund	\$ 8,864,201	36.3%	\$ 10,435,375	37.2%	\$ 10,509,896	37.2%	
01100 General Fund	8,864,201	36.3%	10,435,375	37.2%	10,509,896	37.2%	
02000 Total State Special Funds	14,304,681	58.6%	16,333,878	58.2%	16,392,947	58.1%	
02039 Forestry-Fire Protection Taxes	3,191,531	13.1%	3,390,117	12.1%	3,420,040	12.1%	
02073 Forestry - Slash Disposal	75,275	0.3%	81,561	0.3%	85,967	0.3%	
02119 Non-Land Grant Income - Nb	-	-	-	-	-	-	
02241 Dsl Recreational Use Account	45,619	0.2%	46,593	0.2%	46,600	0.2%	
02280 Forest Resources-Timber Sales	4,074,118	16.7%	4,787,089	17.0%	4,788,470	17.0%	
02324 State Land Bank	133,001	0.5%	255,001	0.9%	255,001	0.9%	
02449 Forest Resources-Forest Improv	1,893,326	7.8%	2,138,962	7.6%	2,141,438	7.6%	
02450 State Lands Res Dev	677,221	2.8%	807,177	2.9%	807,177	2.9%	
02472 Orphan Share Fund	-	-	-	-	-	-	
02576 Natural Resources Operations Ssr Fu	100,000	0.4%	100,000	0.4%	100,000	0.4%	
02681 Historic Right-Of-Way Acct	14,500	0.1%	14,500	0.1%	14,500	0.1%	
02836 Commercial Leases - Tlmd	40,000	0.2%	40,000	0.1%	40,000	0.1%	
02912 Tlmd Land Exchange Admin	45,500	0.2%	145,500	0.5%	145,500	0.5%	
02938 Tlmd - Administration	4,014,590	16.4%	4,527,378	16.1%	4,548,254	16.1%	
03000 Total Federal Special Funds	1,248,641	5.1%	1,317,292	4.7%	1,319,622	4.7%	
03264 Consolidated Grant - Fy08	1,035,116	4.2%	1,067,481	3.8%	1,069,803	3.8%	
03265 Non-Consolidated Grant - Fy08	213,525	0.9%	249,811	0.9%	249,819	0.9%	
03283 Consolidated Grant	-	-	-	-	-	-	
03284 Non-Consolidated Grant Fy09	-	-	-	-	-	-	
06000 Total Proprietary Funds	-	-	-	-	-	-	
06538 Air Operations Internal Svc.	-	-	-	-	-	-	
Grand Total	\$ 24,417,523	100.0%	\$ 28,086,545	100.0%	\$ 28,222,465	100.0%	

The Forestry Division is supported with a mix of general fund, state special revenue, and federal funding. General fund provides general division support as well as the fixed costs of the Fire and Aviation Management program. A transfer from the general fund is made to the proprietary fund, from which it is spent.

State special revenue support comes from forest improvement fees and forest protection fees. Forest improvement fees consist of \$25 for each slash hazard reduction agreement, and \$.060 per thousand board feet sold, plus any forfeited fire hazard reduction bonds. Fees are established when timber sales are approved based upon the state's projected costs of slash disposal, road maintenance, and reforestation.

The department is also required to collect up to one-third of the state's fire protection appropriation from private landowners through a forest protection fee. The other two-thirds are funded with general fund. The department is required to levy the tax so that collections equal the amount appropriated by the legislature.

The Trust Land Management division is funded with trust fund revenue, timber sales, and forest resource fees. The remaining funding is from recreational use and resource development of state lands. Because funding for state lands is taken directly from revenues, any expenditure for administration of state lands is a direct reduction in trust income. General fund is utilized for personal services for the management of non-trust state lands

LFD ISSUE

Funding from Revenues

The Trust Land Management Division of DNRC is responsible for managing 10 trusts consisting of 5.1 million surface acres, 6.3 million mineral acres, and 6,000 miles of navigable rivers for the largest return possible for the beneficiaries through multiple land use policies under the direction of the Board of Land Commissioners (land board). The lands were provided to the state through the Enabling Act and the Morrill Act to support specific beneficiaries. The beneficiaries include common (public) schools, the university system, and specific state institutions. Revenue is generated through land management activities such as commercial leasing, grazing, recreational use, and minerals management.

**LFD
ISSUE (CONT.)**

The cost to manage such activities is recovered from trust revenues.

There are two issues with fiduciary management of trust lands: 1) funding of trust land activities; and 2) how revenues and expenses should be accounted for.

Financing of trust land activities

The executive-proposed budget relies on trust revenues to fund trust land operations. Currently, state law allows trust land administration to be funded with of a portion of distributable revenues (those that by law are distributed directly to the beneficiary) and non-distributable revenues (those that by law are to be deposited to the permanent trust). Legislative legal counsel has long held that it is inappropriate to finance the administration of trust lands in this manner as trusts are protected against lost or diversion (such as for administration). However, the current funding policy has not been challenged in a court of law.

The impact on the beneficiaries is best demonstrated with the common (public) school trust. The “guarantee account” holds the distributable revenues for the common school trust. The legislature determines how much to appropriate for public school support, and provides general fund for the difference between that amount and the funds in the guarantee account. When the guarantee fund increases, general fund support decreases. The overall budget to OPI does not change. When revenue is diverted from the guarantee account or the permanent trust to the administration account, the amount of funding available for public school support is reduced and additional general fund is required. The loss is compounded over time due to lost interests on revenue streams that should have gone to the permanent trust.

It is the policy decision of the legislature to determine how trust lands are funded. The budget request before the legislature relies on trust revenues to fund administration. The legislature has the option to accept this funding matrix or adjust it to create a different policy. Among the options are:

- Switch revenues for general fund – This option would require that the legislature appropriate \$14.8 million of general fund over the biennium to fund trust lands. To do this the legislature would have to consider the impacts on other programs due to the limited nature of general fund revenues for the biennium.
- Establish priority funding - To do this the legislature would need to establish in statute which types of revenue streams are appropriate for administrative costs, and whether or not that includes non-distributable revenue streams such as mineral royalties.
- Create a hybrid system of the two - The legislature would need to request legislation that would phase in a general fund budget to the department to manage trust lands. As part of this phase-in the legislature could determine which revenue streams, distributable or non-distributable, would make up the difference until such time that it is funded in total with general fund.

Accounting by Trust

Beyond administrative costs is the issue of accounting for revenues and expenses on a per trust basis. Given the number of revenue streams, some revenue is deposited to the trust based on acreage such as land use fees and some revenue is on a per trust basis such as leases and timber sales. Expenses are normally applied to each trust as the costs are incurred for that trust. However, in the case of the smaller trusts, revenues may not be available to cover the expenses. When this activity occurs the division utilizes common school revenues to cover the expenses. According to the Legislative Audit Division, this should be considered a loan and repaid to the common school trust. Due to the fact that this usually occurs with timber sales, the lag between the borrowing and the repayment could exceed a year.

The agency is requesting legislation (LC 283) to address some of the above issues. While the agency is not requesting a general fund appropriation, it is requesting the consolidation of funding streams and a structure to address accounting by trust. The legislature may wish to review this bill prior to taking action on the program. If this legislation passes coordination will need to occur with HB 2 to assure the agency has the appropriate resources to meet the intent of the legislation.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	8,864,201	8,864,201	17,728,402	84.64%	24,417,523	24,417,523	48,835,046	86.73%
Statewide PL Adjustments	831,613	881,988	1,713,601	8.18%	1,716,636	1,819,872	3,536,508	6.28%
Other PL Adjustments	224,759	249,520	474,279	2.26%	1,284,452	1,401,432	2,685,884	4.77%
New Proposals	514,802	514,187	1,028,989	4.91%	667,934	583,638	1,251,572	2.22%
Total Budget	\$10,435,375	\$10,509,896	\$20,945,271		\$28,086,545	\$28,222,465	\$56,309,010	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010						Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					2,116,552					2,180,228
Vacancy Savings					(701,275)					(703,814)
Inflation/Deflation					273,357					323,310
Fixed Costs					28,002					20,148
Total Statewide Present Law Adjustments					\$1,716,636	\$1,819,872				
DP 3501 - Forestry Operating Adjustment										
	0.00	224,759	108,901	34,310	367,970	0.00	249,520	128,542	33,969	412,031
DP 3521 - Trust Land Management Operating Adjustment										
	0.00	0	24,482	0	24,482	0.00	0	27,401	0	27,401
DP 3523 - Forest Improvement Projects and Monitoring										
	0.00	0	200,000	0	200,000	0.00	0	200,000	0	200,000
DP 3552 - Restore Trust Land Mngmt Contract Harvesting Base										
	0.00	0	420,000	0	420,000	0.00	0	490,000	0	490,000
DP 3553 - Land Banking Base Restoration Private Funds - BIEN										
	0.00	0	122,000	0	122,000	0.00	0	122,000	0	122,000
DP 3554 - Land Exchange Base Restoration Private Funds										
	0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
Total Other Present Law Adjustments										
	0.00	\$224,759	\$1,025,383	\$34,310	\$1,284,452	0.00	\$249,520	\$1,117,943	\$33,969	\$1,401,432
Grand Total All Present Law Adjustments					\$3,001,088	\$3,221,304				

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** – Due to the large number of emergency hires within the department to address wildland fire season, there has been difficulty in calculating the market rate for 2008. The department is working with the LFD to remedy the situation and will provide that data to the committee
- o **Vacancy** –
 - Real Estate Management has had some turnover and the positions have had recruitment difficulties. Qualifications for the positions are specific to commercial leasing, land purchase and sales, along with easement acquisitions
 - The two programs have broadened recruitment advertising and increased the pay band for hard to fill positions

- o **Legislatively Applied Vacancy Savings** – In FY2008 vacancies made up the 4 percent required vacancy savings for the divisions
- o **Pay Changes** –
 - In June 2008, any position below 92 percent of market within the two programs was moved to that percentage. The division administrators were also given move-to- market pay adjustments
 - A portion of discretionary funds authorized in HB13 (0.03) was utilized for these pay adjustments as well as vacancy savings. The other 0.03 of discretionary funds was utilized for "Paragon of Performance" awards
- o **Retirements** -
 - Thirty employees, or 10 percent of the division, will be eligible for full retirement in the 2011 biennium at a estimated cost of \$300,000
 - Seven employees retired or plan to retire in the FY 2009 biennium
 - The division has established a plan to address retirements by implementing a career ladder, assessing program structure for maximum efficiency, and cross training as needed

New Proposals

New Proposals											
<div><div></div><div>Fiscal 2010</div><div></div><div>Fiscal 2011</div><div></div></div>											
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 3503 - Engine Crew Extension	35	7.00	242,143	0	0	242,143	7.00	242,210	0	0	242,210
DP 3504 - Aviation Crew Coverage Extension	35	4.82	265,756	0	0	265,756	4.82	265,991	0	0	265,991
DP 3522 - Trust Land Management Database Upgrade - OTO	35	0.00	0	65,000	0	65,000	0.00	0	65,000	0	65,000
DP 3524 - Forest Management Software Integration - OTO	35	0.00	0	83,000	0	83,000	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Management Program Allocate	35	0.00	6,903	5,132	0	12,035	0.00	5,986	4,451	0	10,437
Total	11.82	\$514,802	\$153,132	\$0	\$667,934	11.82	\$514,187	\$69,451	\$0	\$583,638	

Sub-Program Details**FORESTRY 01****Sub-Program Proposed Budget**

The following table summarizes the total executive budget proposal for this sub-program by year, type of expenditure, and source of funding.

Budget Item	Base Budget Fiscal 2008	PL Base Adjustment Fiscal 2010	New Proposals Fiscal 2010	Total Exec. Budget Fiscal 2010	PL Base Adjustment Fiscal 2011	New Proposals Fiscal 2011	Total Exec. Budget Fiscal 2011	Total Exec. Budget Fiscal 10-11
FTE	161.16	0.00	11.82	172.98	0.00	11.82	172.98	172.98
Personal Services	8,160,689	711,930	394,899	9,267,518	742,912	395,201	9,298,802	18,566,320
Operating Expenses	3,337,390	303,654	96,903	3,737,947	374,735	95,986	3,808,111	7,546,058
Equipment & Intangible Assets	825,390	34,310	23,000	882,700	33,969	23,000	882,359	1,765,059
Grants	184,491	0	0	184,491	0	0	184,491	368,982
Transfers	959,895	258,495	0	1,218,390	268,549	0	1,228,444	2,446,834
Debt Service	8,323	0	0	8,323	0	0	8,323	16,646
Total Costs	\$13,476,178	\$1,308,389	\$514,802	\$15,299,369	\$1,420,165	\$514,187	\$15,410,530	\$30,709,899
General Fund	8,820,625	1,034,866	514,802	10,370,293	1,109,983	514,187	10,444,795	20,815,088
State/Other Special	3,406,912	204,872	0	3,611,784	239,201	0	3,646,113	7,257,897
Federal Special	1,248,641	68,651	0	1,317,292	70,981	0	1,319,622	2,636,914
Total Funds	\$13,476,178	\$1,308,389	\$514,802	\$15,299,369	\$1,420,165	\$514,187	\$15,410,530	\$30,709,899

Sub-Program Description

The Forestry Division is responsible for planning and implementing forestry programs statewide. Forestry responsibilities include protecting natural resources from wildfire, regulating forest practices, and providing a variety of services to private forest landowners.

Budget Summary By Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent Of Budget
Base Budget	8,820,625	8,820,625	17,641,250	84.75%	13,476,178	13,476,178	26,952,356	87.76%
Statewide PL Adjustments	810,107	860,463	1,670,570	8.03%	940,419	1,008,134	1,948,553	6.35%
Other PL Adjustments	224,759	249,520	474,279	2.28%	367,970	412,031	780,001	2.54%
New Proposals	514,802	514,187	1,028,989	4.94%	514,802	514,187	1,028,989	3.35%
Total Budget	\$10,370,293	\$10,444,795	\$20,815,088		\$15,299,369	\$15,410,530	\$30,709,899	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2010				FTE	Fiscal 2011			
	General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
Personal Services				1,081,624					1,113,892
Vacancy Savings				(369,694)					(370,980)
Inflation/Deflation				209,185					251,697
Fixed Costs				19,304					13,525
Total Statewide Present Law Adjustments				\$940,419					\$1,008,134
DP 3501 - Forestry Operating Adjustment									
0.00	224,759	108,901	34,310	367,970	0.00	249,520	128,542	33,969	412,031
Total Other Present Law Adjustments									
0.00	\$224,759	\$108,901	\$34,310	\$367,970	0.00	\$249,520	\$128,542	\$33,969	\$412,031
Grand Total All Present Law Adjustments				\$1,308,389					\$1,420,165

DP 3501 - Forestry Operating Adjustment - The executive requests an operating adjustment using general, state special, and federal special funds totaling \$367,970 in FY 2010 and \$412,031 in FY2011. This request is due to increases including rental expense, fire protection contracted services, fire training, and equipment maintenance. The majority of the increase (\$258,495 in FY 2010 and \$268,549 in FY 2011) is for increased costs in the air operations program.

LFD COMMENT

The fixed cost portion of the air operations program is funded in the base and transferred to the air operations proprietary fund. This covers the cost of having the air resources available. Actual costs related to flying fire missions are determined on an hourly basis and charged to the appropriate direct protection agency.

New Proposals

New Proposals									
Sub Program	Fiscal 2010				Sub Program	Fiscal 2011			
	FTE	General Fund	State Special	Federal Special		FTE	General Fund	State Special	Federal Special
DP 3503 - Engine Crew Extension									
01	7.00	242,143	0	0	242,143	7.00	242,210	0	0
DP 3504 - Aviation Crew Coverage Extension									
01	4.82	265,756	0	0	265,756	4.82	265,991	0	0
DP 6101 - Fixed Cost Workers Comp Management Program Allocat									
01	0.00	6,903	0	0	6,903	0.00	5,986	0	0
Total	11.82	\$514,802	\$0	\$0	\$514,802	11.82	\$514,187	\$0	\$0

DP 3503 - Engine Crew Extension - The executive recommends an increase of DNRC seasonal engine crew staffing from 5 to 7 days per week coverage for the core portion of the fire season. This addition is projected to provide for increased initial attack success, reduced overtime costs, and result in the probable prevention of two large (1,000+ acre) fires per year. The cost of this proposal is an increase of 7.00 FTE and \$242,143 in FY 2010 and \$242,210 in FY 2011 using general fund.

LFD COMMENT

The Fire Suppression Interim Committee requested this extension for the FY 2009 fire season utilizing state special revenue from the fire suppression fund. Because it was not completed in the base year, a new proposal is necessary. Prior to this action the coverage has been provided by paying overtime for DNRC employees or hiring additional local government or contract engines. This additional staffing would enable DNRC employees to utilize existing engines at a lower overall cost. For further discussion see the agency narrative section titled "Recommendations of the Fire Suppression Interim Committee."

**LFD
ISSUE****Funding Formula**

Statute (77-13-213, MCA) provides for a specific formula for fire protection. Fire protection is the necessary equipment, training and engines that are needed for fire suppression activities. Per statute, this decision package should be funded with one-third fire protection fees. Should the legislature wish to fund the package in this manner, \$80,714 in FY 2010 and \$80,737 in FY 2011 of general fund would be replaced by fire protection assessments.

DP 3504 - Aviation Crew Coverage Extension - The executive recommends an increase in seasonal pilots, helicopter managers, crew members, and fuel truck drivers to enable full utilization of the DNRC helicopter fleet during fire season. This proposal would allow seven day per week coverage for quick response every day during the fire season. The cost of this proposal is an increase of 4.82 FTE and \$265,756 in FY 2010 and \$265,991 in FY 2011 in general fund. This proposal also requires additional funding from the air operations proprietary fund.

**LFD
COMMENT**

The Fire Suppression Interim Committee requested this extension for the FY 2009 fire season utilizing state special revenue from the fire suppression fund. Because it was not completed in the base year, a new proposal is necessary. The implementation of this proposal is projected to provide for the prevention of two large (1,000+ ac.) fires per year and the associated resource loss and fire suppression costs. For further discussion see the agency narrative section titled "Recommendations of the Fire Suppression Interim Committee".

**LFD
ISSUE****Funding Formula**

Statute (77-13-213, MCA) provides for a specific formula for fire protection. Fire protection is the necessary equipment, training and aircraft support that are needed for fire suppression activities. Per statute, this decision package should be funded with one-third fire protection fees. Should the legislature wish to fund the package in this manner, \$88,585 in FY 2010 and \$88,664 in FY 2011 of general fund would be replaced by fire protection assessments.

DP 6101 - Fixed Cost Workers Comp Management Program Allocate - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Sub-Program Details**TRUST LANDS 02****Sub-Program Proposed Budget**

The following table summarizes the total executive budget proposal for this sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget								
Budget Item	Base Budget Fiscal 2008	PL Base Adjustment Fiscal 2010	New Proposals Fiscal 2010	Total Exec. Budget Fiscal 2010	PL Base Adjustment Fiscal 2011	New Proposals Fiscal 2011	Total Exec. Budget Fiscal 2011	Total Exec. Budget Fiscal 10-11
FTE	132.21	0.00	0.00	132.21	0.00	0.00	132.21	132.21
Personal Services	7,254,576	703,347	0	7,957,923	733,502	0	7,988,078	15,946,001
Operating Expenses	3,431,233	989,352	153,132	4,573,717	1,067,637	69,451	4,568,321	9,142,038
Equipment & Intangible Assets	188,748	0	0	188,748	0	0	188,748	377,496
Capital Outlay	66,788	0	0	66,788	0	0	66,788	133,576
Total Costs	\$10,941,345	\$1,692,699	\$153,132	\$12,787,176	\$1,801,139	\$69,451	\$12,811,935	\$25,599,111
General Fund	43,576	21,506	0	65,082	21,525	0	65,101	130,183
State/Other Special	10,897,769	1,671,193	153,132	12,722,094	1,779,614	69,451	12,746,834	25,468,928
Total Funds	\$10,941,345	\$1,692,699	\$153,132	\$12,787,176	\$1,801,139	\$69,451	\$12,811,935	\$25,599,111

Sub-Program Description

The Trust Land Management Division provides for the administration and management of trust lands granted to the State of Montana by the Enabling Act of 1889. These lands currently total 5.2 million surface acres and 6.2 million mineral acres. Additionally, the division is responsible for the administration of approximately 6,000 miles (40,000+ acres) of the beds of navigable waterways. The Trust Land Management Division is divided into four primary programs: forest management; agriculture and grazing management; special use management; and minerals management.

Budget Summary By Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent Of Budget
Base Budget	43,576	43,576	87,152	66.95%	10,941,345	10,941,345	21,882,690	85.48%
Statewide PL Adjustments	21,506	21,525	43,031	33.05%	776,217	811,738	1,587,955	6.20%
Other PL Adjustments	0	0	0	0.00%	916,482	989,401	1,905,883	7.45%
New Proposals	0	0	0	0.00%	153,132	69,451	222,583	0.87%
Total Budget	\$65,082	\$65,101	\$130,183		\$12,787,176	\$12,811,935	\$25,599,111	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2010					Fiscal 2011				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				1,034,928					1,066,336
Vacancy Savings				(331,581)					(332,834)
Inflation/Deflation				64,172					71,613
Fixed Costs				8,698					6,623
Total Statewide Present Law Adjustments				\$776,217					\$811,738
DP 3521 - Trust Land Management Operating Adjustment									
0.00	0	24,482	0	24,482	0.00	0	27,401	0	27,401
DP 3523 - Forest Improvement Projects and Monitoring									
0.00	0	200,000	0	200,000	0.00	0	200,000	0	200,000
DP 3552 - Restore Trust Land Mngmt Contract Harvesting Base									
0.00	0	420,000	0	420,000	0.00	0	490,000	0	490,000
DP 3553 - Land Banking Base Restoration Private Funds - BIEN									
0.00	0	122,000	0	122,000	0.00	0	122,000	0	122,000
DP 3554 - Land Exchange Base Restoration Private Funds									
0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
Total Other Present Law Adjustments									
0.00	\$0	\$916,482	\$0	\$916,482	0.00	\$0	\$989,401	\$0	\$989,401
Grand Total All Present Law Adjustments				\$1,692,699					\$1,801,139

DP 3521 - Trust Land Management Operating Adjustment - This budget request is to restore the base budget for weed control activities and for an increase in operations budget for increased rent costs in Helena, Bozeman, Conrad, Dillon, Lewistown, Glasgow, Havre, Miles City, and the Billings offices. This state special revenue request totals \$24,482 in FY 2010 and \$27,401 in FY 2011.

DP 3523 - Forest Improvement Projects and Monitoring - This state special revenue request is for \$200,000 in both FY 2010 and FY 2011 to increase funding for forest improvement activities such as planting, thinning, slash control, and fire recovery due to increased wildfire activity, contractor costs, and higher harvest levels associated with the CY 2004 change in sustained yield. The goal of the increased funding is to reduce the backlog and improve the response when addressing wildfire recovery.

DP 3552 - Restore Trust Land Mngmt Contract Harvesting Base - The executive recommends a base adjustment for the Contract Harvesting Program. This would annualize program expenditures, as the FY 2008 base was limited due to the planned delay in program implementation.

DP 3553 - Land Banking Base Restoration Private Funds - BIEN - This budget request is for restoration of biennial spending authority of \$244,000 in state special revenue in the Land Banking Program. The preparation of the land for sale requires contracting for appraisals and archeological surveys. State law requires prospective purchasers to deposit funds for appraisals, archeological surveys, and advertising prior to the state incurring those costs. The spending authority is a biennial appropriation to provide for flexibility of acres sold within a biennium.

DP 3554 - Land Exchange Base Restoration Private Funds - The executive recommends restoration of spending authority for private funds of \$150,000 each year in the land exchange program. State law requires prospective exchange agents to deposit funds for appraisals, archeological surveys, and advertising prior to the state incurring those costs. The executive also requests converting \$50,000 each year from private fund authority to the Trust Administration Account to cover the costs of department initiated land exchange expenses.

New Proposals

New Proposals											
Sub Program	FTE	Fiscal 2010				FTE	Fiscal 2011				Total Funds
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds	
DP 3522 - Trust Land Management Database Upgrade - OTO											
02	0.00	0	65,000	0	65,000	0.00	0	65,000	0	65,000	
DP 3524 - Forest Management Software Integration - OTO											
02	0.00	0	83,000	0	83,000	0.00	0	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Management Program Allocate											
02	0.00	0	5,132	0	5,132	0.00	0	4,451	0	4,451	
Total	0.00	\$0	\$153,132	\$0	\$153,132	0.00	\$0	\$69,451	\$0	\$69,451	

DP 3522 - Trust Land Management Database Upgrade - OTO - This biennial one-time-only request is for \$65,000 of state special revenue in both FY 2010 and FY 2011 to cover programming costs to upgrade the Trust Land Management System (TLMS) to interface with server upgrades due to incompatibility issues.

DP 3524 - Forest Management Software Integration - OTO - This one-time-only \$83,000 state special revenue request in FY 2010 is for contracted services to develop a user-friendly interface into the Trust Land Management System (TLMS). This interface will improve user access and integrate forest management software into TLMS.

DP 6101 - Fixed Cost Workers Comp Management Program Allocate - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Program Description

Air Operations

Program Proposed Budget

The following summarizes the total executive budget proposal for this program by year.

Air Operations - Proposed Budget					
	Base	FY2010	FY2010	FY2011	FY2011
		Adjustments	Total	Adjustments	Total
FTE	12.26	1.97	14.23	1.97	14.23
61000 Personal Services	895,125	118,906	1,014,031	124,128	1,019,253
62000 Operating Expenses	1,141,691	95,149	1,236,840	109,213	1,250,904
6300 Equipment	21,275	0	21,275	0	21,275
Total Costs	\$2,058,091	\$214,055	\$2,272,146	\$233,341	\$2,291,432

Program Description

The Air Operation Program manages six medium helicopters, one light helicopter, and three single engine fixed-wing airplanes. Aircraft are primarily used for fire detection, support and suppression of wildfires, and reclamation work in the Department of Environmental Quality. This revenue is also deposited in the proprietary account.

The Air Operations Program in the Forestry Division is funded from the air operations proprietary account for those costs that can be supported by the aircraft rates charged for the use of the aircraft and general fund and fire protection tax revenue for fixed costs.

Funding

The air operations program is funded with HB 2 appropriations transferred to the fund to cover fixed costs and with hourly charges for aviation services. The appropriations within agency budgets provide the funding for non-fire mission events. Fire mission events are paid by the direct protection agency responsible for managing the fire, or the general fund. This funding matrix is difficult to project as a large portion of it is dependent on fire activity.

Air Operations - Estimated Funding			
Payment Funding	Base	FY 2010	FY 2011
General Fund - Transfers	\$633,350	\$804,137	\$810,773
State Special Revenue - Trf.	326,366	414,254	417,672
All other funds	<u>1,229,115</u>	<u>1,053,755</u>	<u>979,644</u>
Total Payments	<u>\$2,188,831</u>	<u>\$2,272,146</u>	<u>\$2,208,089</u>

Program Narrative

Revenues

The primary source of revenue is in the collection of aircraft rental charges. Variable costs that are dependent on the hours flown, such as fuel and maintenance, are recovered through an hourly rate charged to all users of the aircraft. Users of the aircraft include DNRC, other state agencies, federal agencies, and the state's wildfire suppression efforts.

Fixed costs are paid by the general fund and the fire protection tax revenues since they must be paid regardless of the number of hours flown. These costs include hangar rent, insurance, and personnel costs. The general fund and fire protection taxes are appropriated by the Legislature and transferred to and spent from the proprietary account.

Expenses

The cost driver for the aircraft rates is the recovery of actual expenses needed to maintain the aircraft in an air worthy condition and remain mission ready for the purpose of initial attack on wild fires on state and federal ground. This includes all costs associated with the maintenance and operation of that aircraft. There are some factors that contribute to the uncertainty in forecasting future expenses. This includes unforeseen events such as FAA and manufacturer directives, aircraft incidents resulting in unplanned maintenance and fluctuations in fuel and parts, and length and severity of the fire season. Average fire season and routine maintenance of aircraft are used to determine the anticipated future costs of major cost drivers.

2011 Biennium Report on Internal Services Funds				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$99,801	\$201,993	\$508,508	\$1,138,677
Operating Expenses	2,116,341	1,919,583	2,272,154	2,291,437
Operating Revenues				
Revenue from Fees	1,232,720	1,248,747	1,683,932	1,683,932
Other Revenues	<u>25,917</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Operating Revenues	<u>1,258,637</u>	<u>1,248,747</u>	<u>1,683,932</u>	<u>1,683,932</u>
Contributed Capital	959,896	977,351	1,218,391	1,228,445
Operating Gain (Loss)	<u>102,192</u>	<u>306,515</u>	<u>630,169</u>	<u>620,940</u>
Ending Working Capital Balance	<u>\$201,993</u>	<u>\$508,508</u>	<u>\$1,138,677</u>	<u>\$1,759,617</u>

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget approved by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Air Operations - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjust.	\$0	\$130,740	\$0	\$149,998

New Proposals

Air Operations - New Proposals				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
DP 3504 Aviation Crew	1.97	\$82,814	1.97	\$82,910
DP 6101 Fixed Costs WC	0	501	0	433
Total New Proposals	1.97	\$83,315	1.97	\$83,343

DP 3504 - Aviation Crew Coverage Extension - The executive recommends an increase in seasonal pilots, helicopter managers, crew members, and fuel truck drivers to enable full utilization of the DNRC helicopter fleet during fire season. 1.97 FTE would be funded from the air operations fund.

LFD COMMENT

Based on hours flown per aircraft, the funding request results in a 6 percent increase in the rate. The remaining rate increase is attributed to statewide present law adjustments.

DP 6101 - Fixed Cost Workers Comp Management Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Proprietary Rates

The reimbursement rates for the operation of the department aircraft are based on the time life of 5000 hours of aircraft usage. The rate has been determined to maintain the aircraft in its original condition. At the end of 5000 hours, all parts should have been replaced and a new maintenance / operation cycle started.

For the 2011 biennium the following rates would generate revenue commensurate with costs as presented in the executive budget proposal. The Bell UH-1 increase is 12.5 percent, Jet ranger increase is 7.4 percent and the Cessna rate increases by 13.3 percent.

Air Operations Rates Per Hour				
Service	Actual 2008	Actual 2009	Proposed 2010	Proposed 2011
Bell UH-1/H Helicopters	1,075.00	1,075.00	1,210.00	1,210.00
Jet Ranger Helicopter	475.00	475.00	515.00	515.00
Cessna 180 Airplane	150.00	150.00	170.00	170.00

Proprietary Program Description*Conservation Seedling Nursery***Program Proposed Budget**

The following summarizes the total executive budget proposal for this program by year.

Nursery- Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2011 Adjustments	FY2011 Total
FTE	9.67	1.25	14.23	1.25	14.23
61000 Personal Services	386,122	102,020	488,142	103,859	489,981
62000 Operating Expenses	161,869	2,342	164,211	2,796	164,665
6300 Equipment	11,899	0	11,899	0	11,899
Total Costs	\$559,890	\$104,362	\$664,252	\$106,655	\$666,545

Program Description

The Montana Conservation Seedling Nursery produces and distributes seedlings for conservation plantings, including applications such as fire and logging reforestation, farmstead windbreaks, shelterbelts, wildlife habitat, stream stabilization, and other conservation uses. The program mission is to produce the highest quality, locally-adapted, source-identified seedlings available for conservation practices in Montana and to ensure affordable seedlings are available to Montana landowners. The nursery grows an average of one million seedlings annually on 110 acres of state land and in 9,000 square feet of greenhouse space. Sixty-seven plant species are currently in production. In FY 2006, 895 landowners purchased seedlings. The nursery program is funded solely from the nursery proprietary account.

Funding

The Conservation Seedling Nursery is funded entirely by revenues obtained from the sale of nursery stock.

Program Narrative*Revenues*

The primary source of revenue is seedling sales. Other revenue sources are such services as seed collection, cleaning, and storage and the sale of products for seedling care and protection. The customer base for nursery products and services is comprised of private landowners in Montana, the DNRC Trust Land Management Division, the Department of Fish, Wildlife and Parks, the Conservation Reserve Program (CRP), tribal agencies, the Wildlife Habitat Incentives Program (WHIP), Pheasants Forever, and numerous other conservation programs and organizations. Historic and projected trends in nursery revenue are dependent on conservation activity in the state, landowner access to cost-share dollars for implementation of conservation projects, and long-term seedling production contracts from large scale conservation activities. Revenue potential is also dependent on the number of seedlings available for sale each fiscal year. Sales are predicted two to three years in advance due to the two- to three-year production time needed for each seedling type. This can lead to seedling shortages or surpluses when unforeseen events such as extended drought or extreme fire seasons alter demand for seedlings.

Expenses

The determining factors that set seedling prices are the actual fixed and variable costs of producing the seedlings. Market pressures from other out-of-state seedling producers can also influence prices. Prices are set to recover all program costs and to increase the year-end carryover balance. Year-end carryover dollars are used for non-typical expenses such as large equipment replacement, or for unforeseen expenses such as weather-related crop losses. Since the nursery is funded primarily by seedling sales, all personal services, operating, and capital equipment cost is included when setting prices.

2011 Biennium Report on Internal Services Funds				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$14,883	\$26,304	\$48,789	\$41,556
Operating Expenses	568,593	488,545	664,763	667,122
Operating Revenues				
Revenue from Fees	572,169	506,000	650,000	690,000
Other Revenues	7,845	5,030	7,530	7,530
Total Operating Revenues	580,014	511,030	657,530	697,530
Operating Gain (Loss)	11,421	22,485	(7,233)	30,408
Ending Working Capital Balance	\$26,304	\$48,789	\$41,556	\$71,964

Present Law Adjustments

Nursery - Present Law Adjustments				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
PL 000 Statewide Adjust.	0	\$43,276	0	\$45,476

New Proposals

DP 3502 Seedling Nursery Staffing Increases - The executive recommends the permanent establishment of a 1.00 FTE horticulturalist position at the Montana Conservation Seedling Nursery and to increase the nursery accounting technician position from 0.75 FTE to 1.00 FTE. State nursery seedling production is at its maximum level and the nursery is not fulfilling all requests for restoration and conservation seedlings.

Nursery - New Proposals				
	FY 2010		FY 2011	
	FTE	Costs	FTE	Costs
DP 3502 Nursery Staffing Increase	1.25	\$61,086	1.25	\$61,179

Proprietary Rates

Nursery Rates

The price of each seedling type is set at the end of the previous fiscal year. Prices are based on the actual production costs for each seedling type. The variables involved in seedling production include seedling stock type (bareroot vs. container), seed cost, propagation difficulty, cull rates, seedling age class, quantity produced, equipment costs, labor costs, and overhead charges. Given these variables, each of the 125-plus seedling types can have a different price, and the price must be adjusted annually to account for changes in fixed and variable costs.

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	115.54	115.54	120.54	120.54	115.54	120.54	5.00	4.33%
Personal Services	5,137,987	6,156,419	6,618,581	6,631,948	11,294,406	13,250,529	1,956,123	17.32%
Operating Expenses	2,883,500	3,404,253	4,491,939	4,231,359	6,287,753	8,723,298	2,435,545	38.73%
Equipment & Intangible Assets	207,276	277,025	787,276	417,276	484,301	1,204,552	720,251	148.72%
Grants	4,482,273	4,659,119	6,166,485	6,170,235	9,141,392	12,336,720	3,195,328	34.95%
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	2,281	2,282	2,281	2,281	4,563	4,562	(1)	(0.02%)
Total Costs	\$12,713,317	\$14,499,098	\$18,066,562	\$17,453,099	\$27,212,415	\$35,519,661	\$8,307,246	30.53%
General Fund	781,165	910,664	1,590,389	1,551,208	1,691,829	3,141,597	1,449,768	85.69%
State Special	9,343,877	10,489,602	13,448,502	12,880,875	19,833,479	26,329,377	6,495,898	32.75%
Federal Special	2,195,170	2,638,954	2,404,682	2,396,613	4,834,124	4,801,295	(32,829)	(0.68%)
Other	393,105	459,878	622,989	624,403	852,983	1,247,392	394,409	46.24%
Total Fuods	\$12,713,317	\$14,499,098	\$18,066,562	\$17,453,099	\$27,212,415	\$35,519,661	\$8,307,246	30.53%

Agency Description

Agency Mission: The mission of the Montana Department of Agriculture is to protect producers and consumers, and to enhance and develop agriculture and allied industries.

The Department of Agriculture, required by Article XII, Section 1, of the Montana Constitution, was established to encourage and promote the interests of agricultural and allied industries in Montana. To this end, the department:

- o Strengthens and diversifies the Montana agriculture industry through private-public partnerships
- o Collects and publishes agricultural production and marketing statistics relating to agricultural products
- o Assists, encourages, and promotes the organization of farmers institutes, agricultural societies, fairs, and other exhibitions of agriculture
- o Adopts standards for grade and other classifications of farm products
- o Coordinates the planning and maintenance of economical and efficient marketing distribution systems
- o Gathers and distributes marketing information concerning supply, demand, price, and movement of farm products
- o Regulates production and marketing of food and fiber products
- o Registers pesticides and fertilizers and enforces laws pertaining to them

Agency Highlights

Department of Agriculture Major Budget Highlights	
♦	The executive proposed biennial budget is \$8.0 million or 30 percent higher than the previous biennium
♦	The increase includes \$1.8 million in one-time-only requests: <ul style="list-style-type: none"> • \$1.0 million for invasive species management • \$0.2 million for computer system enhancements • \$0.3 million for laboratory equipment • \$0.3 million for Growth Through Agriculture Grants
♦	Major on-going increases include: <ul style="list-style-type: none"> • Base adjustments of \$1.7 million • Expansion of the Wheat and Barley program of \$2.4 million

♦ Program level goals and objectives were submitted
Major LFD Issues
♦ Program submitted objectives are not measurable and therefore progress toward the goals can not be determined

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

2009 Biennium Major Goals

The following provides an update on the major goals during the 2009 interim.

- Increase the funding for noxious weed management, research and education projects to help reduce the overall infestation of weeds in Montana.

Results: The agency reported that the number of acres treated with noxious weed trust fund (NWTF) grants average 65,000 acres annually, and that 7.4 million acres of Montana's 94 million acres are infested with noxious weeds, making the percentage of the state's weed infected acres treated with NWTF grants 0.88 percent (65,000 divided by 7,400,000).

- Assist in increasing sales of Montana's agricultural products and the success and profitability of agricultural businesses and operations.

LFD COMMENT

A report on progress toward this goal will be available in December of 2008.

2011 Biennium Major Goals

The agency provided summary goals for each division and corresponding objectives for each program mentioned in the goal. This is demonstrated by the submitted goal for the Agricultural Services Division:

- To provide agricultural producers and consumers, commodity and environmental protection through the administration of the Montana laws and rules in the areas of pesticides, groundwater monitoring, noxious weed control, feeds, fertilizers, seed, anhydrous ammonia, grain commodity dealers, public warehousemen, nurseries, produce, mint, honey bees, alfalfa leaf-cutting bees and other services including organic certification, pest management consulting, laboratory analysis, pest surveys, export certification and quarantines.

LFD ISSUE

The goal appears to be a listing of agency activities required by state law. This type of goal provides the reader with a summary of the purpose of the division, but not what the division is explicitly trying to accomplish. Statute may dictate what an agency needs to do, but it does not often provide the priority of the activities. This goal statement represents all activities as equal and that may not be what the legislature intended. The corresponding program objectives, such as the example below, are not specific, measurable or time oriented, which does not allow the evaluation of progress toward the stated goal.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

○ Agency Market –

- The agency's actual target market ratio was 91.79 percent relative to the FY 2006 market survey.
- The agency received additional funding authority in the 2009 biennium to move all non-probationary employees to at least 90 percent of market.
- The current market ratio is (2008 survey) 96 percent.

○ Obstacles -

- Challenges to moving all employees to at least 90 percent of market are financial. The agency funding source is largely fee based.
- The agency has experienced recruiting and retention issues at the Analytical Laboratory in Bozeman due to competition for chemists and the high cost of living in the Bozeman area. The employees at the lab overall are closer to market than other employees in the agency. Agricultural specialists including hydrologists also challenge recruiting techniques.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget						
Agency Program	General Fund	State Spec.	Fed Spec.	Proprietary	Grand Total	Total %
15 Centralized Services Division	\$ 318,190	\$ 1,769,999	\$ 308,477	\$ 292,182	\$ 2,688,848	7.57%
30 Agricultural Sciences Division	1,631,769	13,533,845	4,412,299	-	19,577,913	55.12%
50 Agricultural Development Division	1,191,638	11,025,533	80,519	955,210	13,252,900	37.31%
Grand Total	\$ 3,141,597	\$ 26,329,377	\$ 4,801,295	\$ 1,247,392	\$ 35,519,661	100.00%

The Department of Agriculture is funded from general fund, state special revenue, federal special revenue, and proprietary funds. State special revenue is primarily fees charged for evaluation, promotion, research or marketing of various agricultural products. Proprietary funds are excluded from the above agency proposed budget table and HB 2. However, proprietary funds are presented and discussed in the budget analysis in the various programs in the department that use proprietary funds.

Statutory Appropriations

The following figure shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The figure is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Statutory Appropriations Department of Agriculture					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i>No Direct Bearing on Agency Operations</i>					
Agricultural Seed Dispute Resolution	80-5-510	SSR	\$0	\$3,900	\$3,900
Agriculture Development & Research Grants	90-9-306	SSR	\$0	\$200,000	\$20,000
Hail Insurance Claims & Benefits	80-2-222	Proprietary	\$9,973,184	\$9,973,184	\$9,973,184
Administration of agricultural commodities	80-4-416	SSR	\$54,000	\$54,000	\$54,000
<i>Direct Bearing on Agency Operations</i>					
Agriculture Commodity Research and Market Development	80-11-518	SSR	\$400,774	\$539,500	\$539,500
Implementation of the Growth Through Agriculture Act	15-35-108	GF	\$1,283,610	\$1,315,000	\$1,315,000

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

**LFD
COMMENT**

The statutory appropriation for the hail program is for claims and benefits only. Administrative costs are funded through HB 2.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	781,165	781,165	1,562,330	49.73%	12,713,317	12,713,317	25,426,634	71.58%
Statewide PL Adjustments	101,606	62,559	164,165	5.23%	1,344,403	1,322,886	2,667,289	7.51%
Other PL Adjustments	27,000	27,000	54,000	1.72%	1,595,200	1,233,700	2,828,900	7.96%
New Proposals	680,618	680,484	1,361,102	43.33%	2,413,642	2,183,196	4,596,838	12.94%
Total Budget	\$1,590,389	\$1,551,208	\$3,141,597		\$18,066,562	\$17,453,099	\$35,519,661	

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	14 00	14 00	15.00	15.00	14.00	15.00	1.00	7.14%
Personal Services	818,469	833,004	994,210	997,552	1,651,473	1,991,762	340,289	20.61%
Operating Expenses	175,621	243,565	484,980	212,106	419,186	697,086	277,900	66.30%
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a
Total Costs	\$994,090	\$1,076,569	\$1,479,190	\$1,209,658	\$2,070,659	\$2,688,848	\$618,189	29.85%
General Fund	94,194	141,744	179,043	139,147	235,938	318,190	82,252	34.86%
State Special	715,768	745,460	994,816	775,183	1,461,228	1,769,999	308,771	21.13%
Federal Special	96,144	97,152	159,239	149,238	193,296	308,477	115,181	59.59%
Other	87,984	92,213	146,092	146,090	180,197	292,182	111,985	62.15%
Total Funds	\$994,090	\$1,076,569	\$1,479,190	\$1,209,658	\$2,070,659	\$2,688,848	\$618,189	29.85%

Program Description

The Central Services Division (CSD) performs technical, fiscal, and administrative support functions for the department's internal operations and related programs. Responsibilities include accounting, budgeting, payroll, human resources, purchasing, property control, data processing, systems analysis and computer programming, equal opportunity administration, public information, and legal support to all programs within the department. Included in this division is the Director's Office, which provides overall policy development for the department.

Program Highlights

Centralized Services Division Major Program Highlights
<ul style="list-style-type: none">◆ The proposed biennial budget is 30 percent higher than the 2009 biennial budget, primarily due to statewide present law adjustments and various new proposals◆ The executive request includes \$230,000 of state special revenue authority for one-time-only information technology needs
Major LFD Issues
<ul style="list-style-type: none">◆ The funding allocation for the legislative audit is not applied equally across all fund types◆ The program submitted objectives are not measurable

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee did not select any goals to monitor during the 2009 interim

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

Assist management and staff of the Montana Department of Agriculture in meeting the department's mission by providing efficient, knowledgeable, and cost-effective customer service

- Develop, interpret and maintain policies and procedures that are response to the needs of the department and which comply with state and federal regulations
- Monitor recruitment and selection to ensure a professional, diverse, and responsible workforce
- Provide timely and accurate financial information consistent with Generally Accepted Accounting Principles (GAAP) and state accounting policy
- Provide systems analysis, programming, networking and data processing expertise and information necessary to meet current and future information technology needs and security needs

LFD COMMENT

The division provides support functions to the rest of the department. The objectives provide an idea of what they do, but do not contain a measure or time criteria. From these objectives it would difficult to determine if the division is making progress toward the stated goal. Timeliness and accuracy could be evaluated based on historical averages or error rates. The legislature may wish to discuss with the department objectives that can be used to evaluate progress toward goals.

Funding

The Centralized Services Division (CSD) is funded from an indirect cost reimbursement from federal grants administered by the agency, from an administrative assessment charged to state special and proprietary revenues supporting the two line divisions of the agency, and from the state general fund. State general fund is used to account for any difference between the assessed amount and the budgeted expenditures for the CSD.

Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 94,194	9.5%	\$ 179,043	12.1%	\$ 139,147	11.5%
01100 General Fund	94,194	9.5%	179,043	12.1%	139,147	11.5%
02000 Total State Special Funds	715,768	72.0%	994,816	67.3%	775,183	64.1%
02040 Wheat & Barley Research & Mktg	133,063	13.4%	144,260	9.8%	134,683	11.1%
02068 Noxious Weed Admin Account	91,625	9.2%	136,317	9.2%	106,316	8.8%
02071 Anhydrous Ammonia Account	3,697	0.4%	4,665	0.3%	4,665	0.4%
02192 Pesticide Groundwater Account	142,387	14.3%	212,063	14.3%	152,062	12.6%
02193 Pesticide Account	126,480	12.7%	194,460	13.1%	124,459	10.3%
02198 Fert. Groundwater Account	3,792	0.4%	4,504	0.3%	4,503	0.4%
02264 Organic Certification	9,630	1.0%	99	0.0%	87	0.0%
02265 Fsi Produce	31,903	3.2%	23,931	1.6%	23,930	2.0%
02266 Commodity Dealer/Warehouse	10,012	1.0%	8,517	0.6%	8,517	0.7%
02267 Nursery Account	19,100	1.9%	18,069	1.2%	18,069	1.5%
02268 Produce Account	47,705	4.8%	66,171	4.5%	66,170	5.5%
02269 Seed Account	8,197	0.8%	11,360	0.8%	11,360	0.9%
02340 Coal Sev Tax Shared Ssr	-	-	43,100	2.9%	13,100	1.1%
02452 Commercial Fertilizer	33,213	3.3%	45,574	3.1%	35,574	2.9%
02453 Grain Services	264	0.0%	10,306	0.7%	10,268	0.8%
02454 Commercial Feed	48,858	4.9%	65,731	4.4%	55,731	4.6%
02792 Apiary Account	5,842	0.6%	5,689	0.4%	5,689	0.5%
03000 Total Federal Special Funds	96,144	9.7%	159,239	10.8%	149,238	12.3%
03120 Agriculture Cmd Federal	96,144	9.7%	159,239	10.8%	149,238	12.3%
06000 Total Proprietary Funds	87,984	8.9%	146,092	9.9%	146,090	12.1%
06052 Hail Insurance	87,984	8.9%	146,092	9.9%	146,090	12.1%
Grand Total	994,090	100.0%	1,479,190	100.0%	1,209,658	100.0%

**LFD
ISSUE****Funding audit costs**

The legislative audit for this division is funded with general fund even though general fund provides only nine percent of the total budget. Other state agencies with multiple funding sources allocate audit costs to all funds. According to statute (17-2-108, MCA), non-general fund should be expended before general fund.

Total legislative projected audit costs for the 2011 biennium for this agency are \$43,262. Allocating 91 percent of this cost to non-general fund would reduce the general fund obligation by \$39,368 have minimal impact on the agency's other funding sources and comply with state law.

Option: Fund audit costs with 9 percent general fund and 91 percent other funds, which would reduce general fund by \$39,368 over the biennium.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	94,194	94,194	188,388	59.21%	994,090	994,090	1,988,180	73.94%
Statewide PL Adjustments	29,231	(10,531)	18,700	5.88%	186,542	147,496	334,038	12.42%
Other PL Adjustments	0	0	0	0.00%	10,000	10,000	20,000	0.74%
New Proposals	55,618	55,484	111,102	34.92%	288,558	58,072	346,630	12.89%
Total Budget	\$179,043	\$139,147	\$318,190		\$1,479,190	\$1,209,658	\$2,688,848	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2010					Fiscal 2011				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					165,111					168,574
Vacancy Savings					(39,344)					(39,482)
Inflation/Deflation					477					619
Fixed Costs					60,298					17,785
Total Statewide Present Law Adjustments					\$186,542 *					\$147,496 *
DP 1501 - Program 15 Base Budget Adjustments										
0.00	0	0	0	10,000	10,000	0.00	0	0	10,000	10,000
Total Other Present Law Adjustments										
0.00	\$0	\$0	\$0	\$10,000	\$10,000	0.00	\$0	\$0	\$10,000	\$10,000
Grand Total All Present Law Adjustments					\$196,542					\$157,496

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The Central Services Division has an entry target market of 90 percent with exceptions provided as needed for difficult to fill positions such as accountants and computer specialists. The current market rate in relation to the 2008 market survey is 94 percent
- **Vacancy** – The division does not have any long term or frequent vacancies
- **Legislatively applied vacancy savings** – The division achieved 3.42 percent of the 4.0 percent legislatively applied vacancy savings. The difference was covered through carry-forward funds for the difference and for termination pay outs
- **Pay Changes** – In FY 2008 the department moved to the broadband pay plan and the following adjustments were made in accordance with MPEA negotiated pay plan rules outside of HB 13:
 - 01/05/08 – All employees received a strategic pay retention adjustment of 25 cents per hour.
 - 02/01/08 – All non-probationary employees were moved to 90 percent of market.
- **Retirements** – No employees within the Central Services Division are eligible for full retirement during the 2011 biennium. The program anticipates losing three employees to retirement during the 2009 biennium.

DP 1501 - Program 15 Base Budget Adjustments - This executive is requesting \$10,000 federal special revenue funding each year of the biennium to restore travel (\$7,000) and training (\$3,000) to base amounts due to vacancies in the Central Services Division.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1503 - Network Administrator										
15	1.00	54,774	0	0	54,774	1.00	54,791	0	0	54,791
DP 1504 - Grant Application Management System - Bien - OTO										
15	0.00	0	60,000	0	60,000	0.00	0	0	0	0
DP 1505 - Content Management System for AGR.MT.GOV -Bien-OTO										
15	0.00	0	40,000	10,000	50,000	0.00	0	0	0	0
DP 1506 - Web Based AG Product Registration System-Bien- OTO										
15	0.00	0	120,000	0	120,000	0.00	0	0	0	0
DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation										
15	0.00	844	2,412	283	3,784 *	0.00	693	2,123	250	3,281 *
Total	1.00	\$55,618	\$222,412	\$10,283	\$288,558 *	1.00	\$55,484	\$2,123	\$250	\$58,072 *

DP 1503 - Network Administrator - The executive requests \$54,774 in FY2010 and \$54,791 in FY2011 general fund for 1.00 FTE and operating expenses for a network administrator position. The 2007 Legislature approved this position as a one-time-only for the 2009 biennium.

DP 1504 - Grant Application Management System - Bien - OTO - The executive requests a \$60,000 biennial one-time-only state special revenue appropriation for off the shelf grant application management software that would utilize information technology to improve the business processes within the Noxious Weed and Growth Through Agriculture programs. This request is funded equally with the noxious weed and coal tax shared revenue funds.

DP 1505 - Content Management System for AGR.MT.GOV -Bien-OTO - The executive requests a \$50,000 biennial one-time-only state special revenue (\$40,000) and federal special revenue (\$10,000) appropriation to implement a content management system to assist in updating information on the department's web site. This request is funded with wheat and barley research, pesticide and pesticide ground water funds as well as federal funding.

DP 1506 - Web Based AG Product Registration System-Bien- OTO - The executive requests a \$120,000 biennial one-time-only state special revenue appropriation for upgrading an existing licensing and registration system to allow web based product and apiary registrations. This request is funded with commercial fertilizer, commercial feed, and pesticide and pesticide ground water funds.

DP 6101 - Fixed Cost Workers Comp Mgmt Program Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	63.17	63.17	66.17	66.17	63.17	66.17	3.00	4.75%
Personal Services	3,079,773	3,533,944	3,809,917	3,816,970	6,613,717	7,626,887	1,013,170	15.32%
Operating Expenses	1,286,857	1,478,902	1,800,704	1,806,244	2,765,759	3,606,948	841,189	30.41%
Equipment & Intangible Assets	207,276	215,934	717,276	347,276	423,210	1,064,552	641,342	151.54%
Grants	3,219,520	3,608,848	3,637,482	3,637,482	6,828,368	7,274,964	446,596	6.54%
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	2,281	2,282	2,281	2,281	4,563	4,562	(1)	(0.02%)
Total Costs	\$7,795,707	\$8,839,910	\$9,967,660	\$9,610,253	\$16,635,617	\$19,577,913	\$2,942,296	17.69%
General Fund	297,219	354,599	815,641	816,128	651,818	1,631,769	979,951	150.34%
State Special	5,414,738	5,968,637	6,946,836	6,587,009	11,383,375	13,533,845	2,150,470	18.89%
Federal Special	2,083,750	2,516,674	2,205,183	2,207,116	4,600,424	4,412,299	(188,125)	(4.09%)
Total Fuods	\$7,795,707	\$8,839,910	\$9,967,660	\$9,610,253	\$16,635,617	\$19,577,913	\$2,942,296	17.69%

Program Description

The Agricultural Sciences Division (ASD) administers, manages, coordinates, and evaluates the major activities of: 1) pesticide and pest management; 2) analytical laboratory services; 3) noxious weed management; 4) agricultural chemical groundwater program; 5) seed, feed and fertilizer program; 6) organic certification; 7) nursery program; 8) apiary program; and 9) commodity programs. Duties also include administering agricultural programs related to the production, manufacturing, and marketing of commodities exported from or distributed in the state. The program provides support to the Montana Noxious Weed Management Advisory Council, Noxious Weed Seed Free Forage Advisory Council, Montana Noxious Weed Summit Advisory Council, Montana Organic Commodity Advisory Council, Montana Mint Committee, and the Cooperative Agricultural Pest Survey Advisory Council.

Program Highlights

Agricultural Services Division Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The budget increases by 18 percent over the 2009 biennium primarily due to statewide present law adjustments, base adjustments for increase operational expense and expansion of the noxious weed grants ◆ The executive seeks to establish an invasive species management program with a one-time only appropriation of \$1.0 million general fund ◆ The budget contains \$350,000 in one-time-only funding to address equipment and storage needs at the lab ◆ The division submitted one goal with multiple objectives 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Legislation is required to implement the invasive species management program ◆ The submitted objectives do not allow for further review 	

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- Increase the funding for noxious weed management, research, and education projects to help reduce the overall infestation of weeds in Montana.
 - The number of grant applications received and the number of grant applications funded
 - The dollar amount of grant applications received and the dollar amount funded
 - Percent of state's weed infected acres treated with Noxious Weed Trust Fund grants
 - Summary of the coordinated activities of all parties included in the Montana Weed Management Plan

Results: The agency notes that the number of acres treated with NWTF grants averages 65,000 acres annually, and that 7.4 million acres of Montana's 94 million acres are infested with noxious weeds, making the percentage of the state's weed infected acres treated with NWTF grants 0.88 percent (65,000 divided by 7,400,000).

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim:

- To provide agricultural producers and consumers commodity and environmental protection through the administration of the Montana laws and rules in the areas of pesticides, groundwater monitoring, noxious weed control, feeds, fertilizers, seed, anhydrous ammonia, grain commodity dealers, public warehousemen, nurseries, produce, mint, honey bees, alfalfa leaf-cutting bees and other services including organic certification, pest management consulting, laboratory analysis, pest surveys, export certification and quarantines.

Noxious Weed Management Program

- Assist county weed districts, local governments, tribes and landowners in halting the spread of listed weeds through management of the Montana Noxious Weed Trust Fund and other weed funds.
- Provide technical expertise and general assistance on noxious weed information and noxious weed management techniques.
- Work with university researchers, educators and others to expand weed control options and coordinate biological weed control efforts.

LFD ISSUE

The program objectives are not specific, measurable or timely, and therefore do not allow for future program evaluation regarding progress toward the division's goal. Subsequently they do not provide the legislature the information needed to adequately align program resources. This is particularly critical as the executive is requesting an additional \$2.0 million for this program. The legislature may wish to discuss with the division how projects will be measured.

Groundwater Management Program

- Protect groundwater and the environment from impairment or degradation from the use or misuse of agricultural chemicals.
- Provide for education and training of agricultural product applicators and the public regarding groundwater protection, agricultural chemical use, and the use of alternative agricultural methods

**LFD
ISSUE**

The objectives are not measureable or timely. Since the ground water protection program maintains a network of wells to monitor for degradation, objectives could be based on the data received from those wells to indicate whether degradation has occurred over a period of time. The legislature may wish to discuss with the agency the types of data they have available to provide more appropriate measures of success toward the division's goal.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Agricultural Sciences Division							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000	Total General Fund	\$ 297,219	3.8%	\$ 815,641	8.2%	\$ 816,128	8.5%
	01100 General Fund	297,219	3.8%	815,641	8.2%	816,128	8.5%
02000	Total State Special Funds	5,414,738	69.5%	6,946,836	69.7%	6,587,009	68.5%
	02037 Mint Committee	5,309	0.1%	15,350	0.2%	15,350	0.2%
	02068 Noxious Weed Admin Account	2,153,339	27.6%	2,665,654	26.7%	2,667,793	27.8%
	02071 Anhydrous Ammonia Account	20,465	0.3%	35,063	0.4%	35,165	0.4%
	02072 Manuals & Training Account	22,929	0.3%	25,015	0.3%	25,071	0.3%
	02192 Pesticide Groundwater Account	886,531	11.4%	1,249,448	12.5%	1,077,241	11.2%
	02193 Pesticide Account	810,346	10.4%	1,216,227	12.2%	1,022,013	10.6%
	02198 Fert. Groundwater Account	22,094	0.3%	24,212	0.2%	24,289	0.3%
	02264 Organic Certification	137,209	1.8%	197,607	2.0%	197,900	2.1%
	02265 Fsi Produce	184,578	2.4%	184,036	1.8%	184,769	1.9%
	02266 Commodity Dealer/Warehouse	55,153	0.7%	72,756	0.7%	72,954	0.8%
	02267 Nursery Account	123,306	1.6%	141,647	1.4%	142,218	1.5%
	02268 Produce Account	271,511	3.5%	288,869	2.9%	289,398	3.0%
	02269 Seed Account	51,701	0.7%	74,305	0.7%	74,589	0.8%
	02341 Weed Seed Free Forage Account	24,453	0.3%	26,401	0.3%	26,409	0.3%
	02452 Commercial Fertilizer	256,371	3.3%	284,648	2.9%	285,215	3.0%
	02454 Commercial Feed	343,713	4.4%	403,065	4.0%	403,998	4.2%
	02792 Apiary Account	45,730	0.6%	42,533	0.4%	42,637	0.4%
03000	Total Federal Special Funds	2,083,750	26.7%	2,205,183	22.1%	2,207,116	23.0%
	03118 Agriculture Asd Federal	2,083,750	26.7%	2,205,183	22.1%	2,207,116	23.0%
Grand	Total	\$ 7,795,707	100.0%	\$ 9,967,660	100.0%	\$ 9,610,253	100.0%

The division (ASD) is funded from state general fund, state special revenue, federal funds, and proprietary funds. The proprietary funds are an enterprise account and do not receive a direct appropriation in this bill.

General fund is use to support the Bovine Spongiform Encephalopathy (BSE) feed sampling program, including laboratory costs.

State special revenue, the largest funding source for the division, is primarily fees assessed for regulatory activities, product registration and technical services. The comment in DP 3001 in this narrative provides a listing of the various state special revenue funds that support this division.

Federal special revenue includes funds from the US Forest Service, US Department of Agriculture, and the Environmental Protection Agency. Federal funds support noxious weed mitigation, and portions of the BSE feed sampling program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	297,219	297,219	594,438	36.43%	7,795,707	7,795,707	15,591,414	79.64%
Statewide PL Adjustments	15,422	15,909	31,331	1.92%	650,312	662,881	1,313,193	6.71%
Other PL Adjustments	3,000	3,000	6,000	0.37%	601,100	231,100	832,200	4.25%
New Proposals	500,000	500,000	1,000,000	61.28%	920,541	920,565	1,841,106	9.40%
Total Budget	\$815,641	\$816,128	\$1,631,769		\$9,967,660	\$9,610,253	\$19,577,913	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					731,083					741,290
Vacancy Savings					(152,434)					(152,840)
Inflation/Deflation					13,422					15,356
Fixed Costs					58,241					59,075
Total Statewide Present Law Adjustments					\$650,312					\$662,881
DP 3001 - Program 30 Base Budget Adjustments										
0.00 3,000		3,000	248,100	0	251,100	0.00	3,000	228,100	0	231,100
DP 3002 - Analytical Lab Equipment - Bien - OTO										
0.00 0		0	350,000	0	350,000	0.00	0	0	0	0
Total Other Present Law Adjustments										
0.00 \$3,000		\$3,000	\$598,100	\$0	\$601,100	0.00	\$3,000	\$228,100	\$0	\$231,100
Grand Total All Present Law Adjustments					\$1,251,412					\$893,981

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - The Agricultural Sciences Division has an entry target market of 90 percent with exceptions provided as needed for difficult to fill positions such as chemist, entomologists, and hydrologists. The current market rate in relation to the 2008 market survey is 96 percent
- **Vacancy** - The program is challenged to hire experienced, specialized agricultural specialists. The recruiting efforts are extensive and positions once vacant can be held open a number of months pending selection of the right candidate
- **Legislatively applied vacancy savings** - In FY 2008 the program realized 7.31 percent in vacancies savings due to difficulty hiring agricultural specialists, resignations, and the movement of employees within the agency
- **Pay Changes** - In FY 08 the agency moved to the broadband pay plan and the following adjustments were made in accordance with our MPEA negotiated pay plan rules outside of HB 13
 - 01/05/08 – All employees received a strategic pay retention adjustment of 25 cents per hour
 - Plant Science Specialist market adjustment for internal equity
 - 02/01/08 – All non-probationary employees were moved to 90 percent of market
 - Plant Science Specialists market adjustment for supervisor role
 - Chemical Technicians strategic pay retention adjustment

- Operations Manager strategic pay retention adjustment
 - 03/15/08 – Plant Science Specialist market adjustment for lead worker role
 - 06/07/08 – Auditor strategic pay retention adjustment
- **Retirements** - Four employees will be eligible for full retirement in the FY 2011 biennium with an unfunded liability of approximately \$90,000. The program does not anticipate any retirements during the 2009 biennium

DP 3001 - Program 30 Base Budget Adjustments - The executive budget includes \$251,100 FY 2010 and \$231,100 FY 2011 general, state special revenue and proprietary funds for base budget adjustments within the division as follows:

- BSE Inspections Program \$3,000 general fund per year increase for new office rent in Havre
- Mint Program revenues of \$10,350 for contract services/research and Mint Committee per diem
- Noxious Weed Management Program \$52,050 state special revenue to re-establish advisory council per diem and meeting costs, supplies, and travel
- Anhydrous Ammonia Program \$4,000 of assessment fees for field inspection supplies and travel
- Manual Training Program state special revenue of \$2,000 per year for printing training manuals
- Groundwater Program \$53,500 of product registration fees for contracted services, field supplies, printing services, MSU utilities for the Analytical Laboratory in Bozeman and a replacement vehicle
- Pesticide Program adjustments include \$89,000 of state special revenue for private pesticide applicator training, MSU utilities for the Analytical Laboratory in Bozeman, travel, field supplies and a replacement vehicle in FY 2010 only
- Commodity Warehouse Program \$6,000 for travel and new office rent in Forsyth
- Produce Program \$9,700 for printed forms, per diem, travel and field office rent
- Seed Program \$6,000 for MSU Seed Lab sample fees and travel
- Noxious Weed Seed Free Forage Program \$2,500 for twine and twine storage
- Fertilizer Program \$9,000 for field inspection supplies and travel
- Feed Program \$4,000 for field inspection supplies and travel

**LFD
COMMENT**

Large Base Adjustment - As presented the base adjustment does not allow the legislature to examine changes to any particular program without specifically segregating the program from the adjustment. In examining the detail of this adjustment no significant program issues were noted. The submitted detail of this decision package is summarized in the figure below.

Summary of Expenditures and Funding for DP 3001 Agricultural Services Division Base Budget Adjustment			
Category	FY 2010	FY 2011	Biennial
Expenditures			
61300 Other Compensation	\$5,600	\$5,600	\$11,200
62100 Other Services	71,500	71,500	143,000
62200 Supplies & Materials	33,000	33,000	66,000
62400 Travel	51,500	51,500	103,000
62500 Rent	9,500	9,500	19,000
62600 Utilities	50,000	50,000	100,000
63100 Equipment	30,000	10,000	40,000
Total Expenditures	<u>\$251,100</u>	<u>\$231,100</u>	<u>\$482,200</u>
Funding			
01100 General Fund	\$3,000	\$3,000	\$6,000
02037 Mint Committee	10,350	10,350	20,700
02068 Noxious Weed Admin Account	52,050	52,050	104,100
02071 Anhydrous Ammonia Account	4,000	4,000	8,000
02072 Manuals & Training Account	2,000	2,000	4,000
02192 Pesticide Groundwater Account	53,500	53,500	107,000
02193 Pesticide Account	89,000	69,000	158,000
02266 Commodity Dealer/Warehouse	6,000	6,000	12,000
02268 Produce Account	9,700	9,700	19,400
02269 Seed Account	6,000	6,000	12,000
02341 Weed Seed Free Forage Account	2,500	2,500	5,000
02452 Commercial Fertilizer	9,000	9,000	18,000
02454 Commercial Feed	4,000	4,000	8,000
Total Funds	<u>\$251,100</u>	<u>\$231,100</u>	<u>\$482,200</u>

DP 3002 - Analytical Lab Equipment - Bien - OTO - The executive requests \$350,000 one-time-only biennial state special revenue authority to purchase a replacement Micromass Quattro Ultima LC/MS/MS instrument used for testing metabolite residues in pesticide and groundwater samples for the Analytical Laboratory in Bozeman. This would expand the lab's ability to report on metabolite residues and which may result in lower pesticide reporting and providing more helpful information to program regulators for decision making.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 3003 - Continue Noxious Weed Trust Fund Grants Increase										
30	1.00	0	420,541	0	420,541	1.00	0	420,565	0	420,565
DP 3005 - Invasive Species Advisory Council Bien/OTO (Requires Legislation)										
30	2.00	500,000	0	0	500,000	2.00	500,000	0	0	500,000
Total	3.00	\$500,000	\$420,541	\$0	\$920,541 *	3.00	\$500,000	\$420,565	\$0	\$920,565 *

DP 3003 - Continue Noxious Weed Trust Fund Grants Increase - The executive requests \$420,000 of state special revenue each year of the biennium to continue the Noxious Weed Trust Fund grants at levels established during the 2007 Legislature and approved as one-time-only. This includes funding for 1.00 FTE to assist in managing and monitoring grant projects and the increase in program costs attributed to the increase of the noxious weed trust fund by \$5 million.

DP 3005 - Invasive Species Advisory Council Bien/OTO (Requires Legislation) - The executive requests 1.0 FTE and \$500,000 general fund each year of the biennium to fund the Invasive Species Advisory Council and its efforts to stop the spread of invasive species in Montana. Funding is recommended as one-time-only and biennial and is contingent on passage and approval of LC 0424.

Justification

This proposal is submitted to provide authority to address the threat of invasive species, a mechanism to coordinate the state's efforts, and a state strategic plan. Agencies responsible for combating invasive species have identified areas of authority they lack to prevent the introduction and the ability to respond to the presence of these species. Existing state, federal, and private efforts could be enhanced and more effective if they were coordinated rather than limited (time, people, and funding) individual efforts. Development of the advisory council will serve as the infrastructure needed to coordinate the existing efforts and plan for future needs. A strategic plan is needed to identify and prioritize threats; determine appropriate plans of actions including public awareness, education, prevention, detection (surveying and monitoring), emergency response, management and control, and restoration; coordinate mechanisms; and coordinate resource needs (funding).

Project Outcomes

- Create an advisory council
- Grant additional authority needed to effectively prevent, respond to, control, and manage invasive species
- Provide a mechanism of collaboration and coordination of invasive species efforts in the state
- Develop a state invasive species strategic plan to guide the state's efforts
- Increase awareness and engage the public

Performance Criteria

Key progress points include the creation of an advisory council; successful recruitment of 2.00 FTE, an administrative specialist and an administrative assistant, and completion of a statewide invasive species strategic plan.

Progress may also be measured through:

- Administrative rulemaking undertaken
- Education/training efforts completed
- Awareness products produced, i.e., brochures, factsheets, website development, billboards
- Surveys conducted
- Inspections completed
- Check stations conducted
- Management areas designated
- Meetings attended (to coordinate, collaborate, and act as a liaison)
- Prevention of invasive species introductions
- Invasive species eradicated, controlled, or managed
- State agency actions completed, i.e., processing of requests such as petitions for noxious weed listing and exotic animal classification decisions

Milestones

Expected Completion Date

- Creation of the Montana Invasive Species Advisory Council July 2009*
- Recruitment of administrative specialist and administrative support July 2009
- Identification of immediate threats December 2009

- | | |
|--------------------------------|---------------------------|
| ○ Awareness/outreach strategy | March 2010 |
| ○ Statewide strategic plan | December 2010 |
| ○ Administrative rule making | June 2011, then as needed |
| ○ Check stations | On-going, seasonal |
| ○ Management area designations | On-going, as needed |
| ○ Coordination/collaboration | On-going |
| ○ Response to invasive species | On-going |

*Assumes an effective legislation date of July 1, 2009

FTE

The work will be completed by the newly formed Montana Invasive Species Advisory Council. The advisory council will be administratively attached to the MDA and staffed by an administrative specialist and administrative assistant whose primary responsibilities will be to accomplish the goals of the council.

Funding

The funding is proposed as a one-time-only general fund appropriation. It is estimated that the Invasive Species Advisory Council and staff functions will be ongoing. Costs in the 2013 biennium to the general fund are estimated to be \$500,000 each year.

Obstacles

Challenges to implementing this proposal include:

- Coordinating individuals, organizations, and agencies involved in invasive species within the state and the regional and national level
- Effectively educating and engaging the public
- Managing invasive species entry points into the state
- Adequately funding invasive species efforts, particularly those related to emergency response

Risk

If the proposal is not adopted, the infrastructure will not be established and a well coordinated effort will not be realized. The proposal includes the completion of an invasive species statewide strategic plan to guide the state. If the proposal is not adopted, a statewide strategic plan will not be completed. The proposal identifies the needed funding to accomplish the purpose of the proposal. If the proposal is not adopted, the funding will not be available.

**LFD
ISSUE****Multiple Issues Exist**

The department is requesting \$1.0 million one-time only general fund for a program that has not been defined in statute, does not have measureable objectives, and is on-going in nature.

General Fund is Only Funding Source Identified

It is unclear why general fund is the only fund source utilized for this purpose. The agency did not justify why any other funding source was appropriate in the expanded justification.

Statutory Definition

This proposal is contingent upon the passage and approval of LC 424. The assumption is being made that the legislation will provide guidance regarding the council and its responsibilities and how those responsibilities are to be carried out. Without the ability to review the proposed legislation, the legislature may not be able to appropriately align resources with statutory requirements. As of this writing, the drafting process for this legislation has not begun.

Objectives are not measurable

The justification for the program is to combat invasive species through the development of a strategic plan. If this is true, the objectives should address when a publicly approved plan should be completed. As written, the objectives are items that should be addressed in a strategic plan that has yet to be developed.

On-going program

The expanded justification clearly states that this proposal, if approved, would require support in the 2013 biennium. If the one-time only appropriation is to provide the funding to develop a strategic plan, the 2013 legislature would need to determine the validity of allocating resources to implement the plan. If the legislature intends to utilize the one-time only restriction in this manner, accompanying language in HB 2 may be necessary to further restrict the appropriation to the development of the plan.

Given the multiple issues with this proposal, legislature may wish to consider one or more of the following:

- Review the enabling legislation prior to taking action on the decision package and adjust the appropriation to align with the requirements of the enabling legislation
- Utilize language in HB 2 to clarify the intent of the one-time only appropriation
- Disapprove the decision package
- Discuss with the agency other potential funding sources

Proprietary Rates**Proprietary Program Description**

The Alfalfa Leaf-cutting Bee Program (fund 06011) was established in Title 80, Chapter 6 Part 11, MCA. The Alfalfa Seed Committee establishes standards for pathogens and parasites, certification of bees, and management of the program in cooperation with the department. Department personnel perform field and laboratory analysis.

**LFD
COMMENT****Definition**

The Alfalfa Leafcutter Bee (*Megachile rotundata*) is a European species of bee that has been cultured in the United States for pollination purposes and has also become feral and widespread. It does not build colonies or store honey, but is a very efficient pollinator of alfalfa seed, and some other vegetables.

Funding

Fees are charged for certification and registration of alfalfa leaf-cutting bees in Montana and for laboratory expenses.

Program Narrative

Program expenses and expenditures are for laboratory and field testing activities performed by the department.

Proprietary Rate Explanation

Fees are charged for certification and registration of alfalfa leaf-cutting bees in Montana and for laboratory expenses. The fees are set by rule.

2009 Biennium Report on Internal Services Funds

	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$2,377	\$2,403	\$4,253	\$6,103
Operating Expenses	0	58,200	58,200	58,200
<u>Operating Revenues</u>				
Loan Fees	0	60,000	60,000	60,000
Investment Earnings	25	50	50	50
Other Revenues	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Operating Revenues	26	60,050	60,050	60,050
Operating Gain (Loss)	26	1,850	1,850	1,850
Ending Working Capital Balance	<u>\$2,403</u>	<u>\$4,253</u>	<u>\$6,103</u>	<u>\$7,953</u>

**LFD
ISSUE****Proprietary Fund Not Necessary**

The purpose of the Alfalfa Leaf Cutting Bee program is to provide services to protect and certify bee populations in Montana. In enacting the program the legislature clearly stated that the fees were to support this program and placed the funding into an enterprise fund. (80-6-1109, MCA) The legislature could meet the original intent of the program and appropriate the funds in HB 2 by eliminating the need for an enterprise fund and establishing a state special revenue fund for the same purpose. The legislature would then review this program as part of the department's regular activities. To make this change the legislature would need to amend 80-6-1109, MCA.

Alfalfa Leaf Cutting Bee Fund - Rates

Service	Actual 2008	Actual 2009	Proposed 2010	Proposed 2011
<u>A License</u>				
Sample Analysis	30.00	30.00	30.00	30.00
Sample Certification Fee	30.00	30.00	30.00	30.00
Sex Ratio Analysis	20.00	20.00	20.00	20.00
<u>B License</u>				
Owner Registration Fee	15.00	15.00	15.00	15.00

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	38.37	38.37	39.37	39.37	38.37	39.37	1.00	2.61%
Personal Services	1,239,745	1,789,471	1,814,454	1,817,426	3,029,216	3,631,880	602,664	19.90%
Operating Expenses	1,421,022	1,681,786	2,206,255	2,213,009	3,102,808	4,419,264	1,316,456	42.43%
Equipment & Intangible Assets	0	61,091	70,000	70,000	61,091	140,000	78,909	129.17%
Grants	1,262,753	1,050,271	2,529,003	2,532,753	2,313,024	5,061,756	2,748,732	118.84%
Benefits & Claims	0	0	0	0	0	0	0	n/a
Total Costs	\$3,923,520	\$4,582,619	\$6,619,712	\$6,633,188	\$8,506,139	\$13,252,900	\$4,746,761	55.80%
General Fund	389,752	414,321	595,705	595,933	804,073	1,191,638	387,565	48.20%
State Special	3,213,371	3,775,505	5,506,850	5,518,683	6,988,876	11,025,533	4,036,657	57.76%
Federal Special	15,276	25,128	40,260	40,259	40,404	80,519	40,115	99.28%
Other	305,121	367,665	476,897	478,313	672,786	955,210	282,424	41.98%
Total Funds	\$3,923,520	\$4,582,619	\$6,619,712	\$6,633,188	\$8,506,139	\$13,252,900	\$4,746,761	55.80%

Program Description

The Agricultural Development Division (ADD) administers programs to promote Montana agriculture through market development and enhancement. Assistance is given toward commercialization of traditional as well as innovative agricultural products and processes. The program provides support to the Alfalfa Seed Committee, the Montana Wheat and Barley Committee, the Montana Agricultural Development Council, and the Board of Hail Insurance. The division is comprised of the following bureaus: Rural Development, Wheat and Barley, Agriculture Marketing & Business Development and the State Grain Laboratory. The State Grain Laboratory provides grades, protein determinations, malting barley germination, and falling number tests for contract settlement prices between buyers and sellers of grain crops in Montana.

Program Highlights

Agricultural Development Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The executive is requesting \$2.4 million in additional authority for increased wheat and barley commission activities ◆ The executive proposes to switch grain lab funds with general fund to stabilize lab funding ◆ The division submitted one goal with multiple objectives 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The funding switch from grain lab fees to general fund in the lab represents a major policy change ◆ A strategic plan for the wheat and barley increase should be reviewed ◆ The submitted objectives do not allow for further review 	

Program Narrative

2009 Biennium Monitored Goals and Objectives

The Legislative Finance Committee selected the following goal to monitor during the 2009 interim:

- Assist in increasing sales of Montana's agricultural products and the success and profitability of agricultural businesses and operations
 - Meet annually with at least 50 Montana companies, organizations and/or individuals to discuss marketing and business development activities and resources

LFD COMMENT

A report on progress toward this goal will be available in December of 2008

2011 Biennium Major Goals

The agency is required by law to submit goals and measurable objectives as part of the budgeting process. The Legislative Fiscal Division recommends that the legislature adopt specific program goals and corresponding objectives for monitoring during the interim.

Division Goal: To enhance, expand and diversify Montana's agricultural economy, thereby improving the general economy of the state of Montana by providing services which include market and agri-business development, Growth Through Agriculture investments, wheat and barley research and marketing, agriculture loans, beginning farmer/rancher loans, hail insurance, grain grading and inspection, and administration of agricultural commodity research and market development programs.

State Grain Laboratory Bureau

Objectives:

- Provide timely, official, objective and accurate test results to buyers and sellers of Montana grain under standards set by the USDA Federal Grain Inspection Service
- Provide timely, official, sampling services and testing of other Montana commodities

LFD ISSUE

The objectives are written to support the on-going process of testing grain. The objectives do not provide a means to determine if the on-going process is successful. This could be determined by analyzing sample testing time, sample quality indicators, or the need to repeat samples. The executive is seeking an infusion of general fund into the lab's budget, and the legislature may wish to consider these objectives when aligning resources.

Wheat & Barley Bureau

Objectives:

- Provide support for the Montana Wheat and Barley Committee
- Develop marketing knowledge and markets
- Determine new uses for wheat and barley
- Develop alternative crops for rotation with wheat and barley
- Carry out all research and marketing contemplated by Title 80, Chapter 11, part 2

LFD ISSUE

The program objectives are not specific, measurable or timely, and therefore do not allow for future program evaluation regarding progress toward the division's goal. In addition, significant program expansion is being requested based upon these objectives. Please see the Wheat and Barley Adjustment issue in the Program Issues section.

Program Issue:**LFD
ISSUE****Wheat and Barley Adjustments**

The administratively attached Wheat and Barley Committee is responsible for conducting research into the production, marketing, and uses of wheat and barley. This activity is to be accomplished through contracting with units of the Montana University System or other local, state, or national organizations. Statute (80-11-205, MCA) prohibits this activity from being completed directly by department through hired researchers and scientific personnel. The funding for the program is from the annual assessment of 12.5 mills per bushel of wheat and 20 mills per hundredweight of barley. A mill is about one tenth of one cent.

The Committee has an adjusted base budget of \$2.1 million funded solely with assessments. The executive is proposing two adjustments to the committee's budget, a present law adjustment of \$490,000 per year in DP 5001, and a program expansion of \$1.2 million per year in DP 5010. The net affect of the decision packages would raise the committee's base budget to approximately \$3.8 million. This represents an 81 percent increase to the program. The figure below illustrates the combined impact of the two decision packages.

The legislature needs to examine this program as a whole in order to align the appropriation with the statutorily defined purpose of the committee. In the submitted goals and objectives, (as referenced below in *2011 Biennium Major Goals*) the committee's objectives are not clear, nor can any progress made by the committee be measured. If the objective is to develop market knowledge and markets, what is the legislature approving for purchase? Is it a new market for wheat and/or barley or is it insight on the current market? And how will success be measured? As the executive has proposed this large of an increase, a discussion regarding how the funding will impact producers and ultimately how that impact will be measured is important. Therefore, the legislature may wish to review and discuss with the agency the strategic plan for the committee prior to taking any action.

Department of Agriculture Biennial Requests for the Wheat and Barley Commission			
Category	Present Law DP 5001	New Proposal DP 5010	Combined Request 2011 Biennium
Personal Services	\$0	\$109,102	\$109,102
Overtime	24,000	0	24,000
Per Diem	16,000	0	16,000
Consultation & Professional Services	300,000	390,000	690,000
Publications & Graphics	0	10,000	10,000
Out-of-State Transportation	0	40,000	40,000
Foreign Travel	0	100,000	100,000
Training	0	20,000	20,000
Autos & Trucks	40,000	40,000	80,000
Educational Grants	600,000	1,700,000	2,300,000
	<u>\$980,000</u>	<u>\$2,409,102</u>	<u>\$3,389,102</u>

To do this the legislature would need to:

- Request the Wheat and Barley Committee provide a strategic plan, with goals and measureable objectives that support program expansion
- Align resources to match that plan

The technical budget activities would include:

- Segregating the present law adjustment for the Committee from DP 5001 by reducing the decision package by \$490,000 each year of the biennium
- Create a new present law adjustment for the Committee to reflect the on-going costs of the program prior to any expansion
- Evaluate DP 5010 base on the Committee's strategic plan and provide appropriate resources to meet that plan

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Agricultural Development Division						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 389,752	9.9%	\$ 595,705	9.0%	\$ 595,933	9.0%
01100 General Fund	389,752	9.9%	595,705	9.0%	595,933	9.0%
02000 Total State Special Funds	3,213,371	81.9%	5,506,850	83.2%	5,518,683	83.2%
02040 Wheat & Barley Research & Mktg	2,223,435	56.7%	3,930,023	59.4%	3,930,979	59.3%
02066 Agriculture In Mt Schools Act.	8,235	0.2%	10,000	0.2%	10,000	0.2%
02268 Produce Account	4,062	0.1%	2,000	0.0%	2,000	0.0%
02340 Coal Sev. Tax Shared Ssr	489,599	12.5%	795,376	12.0%	796,394	12.0%
02453 Grain Services	477,040	12.2%	737,316	11.1%	738,675	11.1%
02461 Alfalfa Seed Assessment	9,566	0.2%	24,385	0.4%	24,385	0.4%
02466 Misc Ag Donations	1,434	0.0%	-	-	-	-
02582 Certified Natural Beef	-	-	7,750	0.1%	16,250	0.2%
03000 Total Federal Special Funds	15,276	0.4%	40,260	0.6%	40,259	0.6%
03225 Agriculture Add Federal	15,276	0.4%	40,260	0.6%	40,259	0.6%
06000 Total Proprietary Funds	305,121	7.8%	476,897	7.2%	478,313	7.2%
06052 Hail Insurance	305,121	7.8%	476,897	7.2%	478,313	7.2%
Grand Total	\$ 3,923,520	100.0%	\$ 6,619,712	100.0%	\$ 6,633,188	100.0%

General fund supports division administration, agricultural markets, and agriculture statistic functions. The Governor is proposing that general fund subsidize the grain lab in the 2011 biennium.

State and other special revenue consist of wheat and barley sales taxes, coal severance tax collections, grain testing fees, alfalfa seed assessments, private donations, income tax check offs for Agriculture in Montana Schools, and interest earnings. The Growth Through Agriculture (GTA) program receives a share of 5.46 percent of coal severance tax collections to fund grants and operations of the Agriculture Development Council for the Montana Growth Through Agriculture Act.

Federal special revenue is from federal grants used to develop agriculture markets, marketing projects, and related operating costs.

Proprietary funds are from hail insurance and are used to pay the administrative costs of the Hail Insurance Program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	389,752	389,752	779,504	65.41%	3,923,520	3,923,520	7,847,040	59.21%
Statewide PL Adjustments	56,953	57,181	114,134	9.58%	507,549	512,509	1,020,058	7.70%
Other PL Adjustments	24,000	24,000	48,000	4.03%	984,100	992,600	1,976,700	14.92%
New Proposals	125,000	125,000	250,000	20.98%	1,204,543	1,204,559	2,409,102	18.18%
Total Budget	\$595,705	\$595,933	\$1,191,638		\$6,619,712	\$6,633,188	\$13,252,900	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2010					Fiscal 2011					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				543,134						546,210
Vacancy Savings				(71,318)						(71,438)
Inflation/Deflation				3,498						3,901
Fixed Costs				32,235						33,836
Total Statewide Present Law Adjustments				\$507,549 *						\$512,509 *
DP 5001 - Program 50 Base Budget Adjustments										
0.00	24,000	584,950	25,000	684,100 *	0.00	24,000	593,450	25,000	692,600 *	
DP 5006 - GTA Act Coal Severance Tax -OTO										
0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000	
Total Other Present Law Adjustments										
0.00	\$24,000	\$884,950	\$25,000	\$984,100 *	0.00	\$24,000	\$893,450	\$25,000	\$992,600 *	
Grand Total All Present Law Adjustments				\$1,491,649 *						\$1,505,109 *

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - Agricultural Development Division has an entry target market of 90 percent with exceptions provided as needed for difficult to fill positions such as business development specialists. The current market rate in relation to the 2008 market survey is 90 percent.
- **Vacancy** - The program is challenged to hire part-time as needed hail adjusters and grain laboratory graders. The workload drives the recruiting efforts and as these are temporary skilled positions the pool is often limited.
- **Legislatively applied vacancy savings** - This year the program realized 34.28% in vacancy savings due to a reduced need for some part-time temporary staff and difficulties in recruiting and maintaining a skilled part-time temporary staff
- **Pay Changes** -
 - In FY 08 the agency moved to the broadband pay plan and the following adjustments were made in accordance with our MPEA negotiated pay plan rules outside of HB 13
 - 01/05/08 - All employees received a strategic pay retention adjustment of 25 cents per hour.
 - 01/19/08 - Operations Manager market adjustment for internal equity
 - 02/01/08 - All non-probationary employees were moved to 90 percent of market
 - Business Development Specialists market adjustment for supervisor role
 - Business Development Specialists market adjustment for lead role
 - Administrative Specialist market adjustment for supervisor role
 - Business Operations Supervisor strategic pay retention
 - Operations Manager strategic pay retention
 - The pay changes noted above were funded by vacancy savings and specific funding appropriated for the 2009 biennium
- **Retirements** - There are two employee eligible for full retirement with a unfunded compensation liability of \$36,400,

DP 5001 - Program 50 Base Budget Adjustments - The executive budget includes \$684,100 FY2010 and \$692,600 FY2011 general, state special revenue and proprietary funds for base budget adjustments within the division as follows:

- Agriculture Marketing; \$24,000 per year in general fund for overtime, travel, and meeting expenses, \$25,000 for federal grant assistance
- The Wheat & Barley Committee; \$490,000 state special revenue funding per year to restore the base budget authority for committee per diem, overtime, contracts, equipment, and grants
- Agricultural Statistics; \$16,000 state special revenue per year for printing and supplies
- Agriculture in Montana Schools; \$10,000 per year state special revenue funding for overtime and contracted temporary services
- The State Grain Laboratory (SGL); \$46,000 state special revenue funding each year of the biennium for overtime, supplies, travel, and equipment
- Alfalfa Seed Assessment; \$15,200 state special revenue funding each year to restore the Alfalfa Seed Committee member per diem and research grants
- Hail Insurance, \$50,150 enterprise funding each year to restore the Board of Hail Insurance per diem, supplies, and travel
- Certified Natural Beef Marketing; \$7,750 in FY 2010 and \$16,250 in FY 2011 to establish base for contracts, printing, travel, meeting expenses, and grant assistance

**LFD
COMMENT**

The figure below summarizes the base adjustment request.

Summary of Expenditures and Funding for DP 5001 Agricultural Development Division Base Budget Adjustment			
Category	FY 2010	FY 2011	Biennial
Expenditures			
61100 Salaries	\$37,000	\$37,000	\$74,000
61300 Other Compensation	8,350	8,350	16,700
62100 Other Services	167,750	170,500	338,250
62200 Supplies & Materials	23,250	23,250	46,500
62300 Communications	250	400	650
62400 Travel	78,250	79,100	157,350
62800 Other Expenses	3,000	4,000	7,000
63100 Equipment	50,000	50,000	100,000
66100 From State Sources	316,250	320,000	636,250
Total Expenditures	<u>\$684,100</u>	<u>\$692,600</u>	<u>\$1,376,700</u>
Funding			
01100 General Fund	\$24,000	\$ 24,000	\$ 48,000
02040 Wheat & Barley Research & Mktg	504,000	504,000	1,008,000
02066 Agriculture In Mt Schools Act.	10,000	10,000	20,000
02268 Produce Account	2,000	2,000	4,000
02453 Grain Services	46,000	46,000	92,000
02461 Alfalfa Seed Assessment	15,200	15,200	30,400
02582 Certified Natural Beef	7,750	16,250	24,000
03225 Agriculture Add Federal	25,000	25,000	50,000
06052 Hail Insurance	50,150	50,150	100,300
Total Funds	<u>\$684,100</u>	<u>\$692,600</u>	<u>\$1,376,700</u>

**LFD
ISSUE**

Wheat and Barley Adjustment should be segregated - See the Program Issue section of the narrative.

DP 5006 - GTA Act Coal Severance Tax -OTO - The executive requests \$300,000 in authority each year of the biennium from the coal severance tax shared state special revenue fund for the Montana Growth Through Agriculture program. This is one-time only funding.

**LFD
COMMENT**

The coal tax shared revenue fund is statutorily designated for libraries, conservation districts, and the Growth Through Agriculture program. The Growth Through Agriculture program funds grants and operations of the Agriculture Development Council which is administratively attached to the Department of Agriculture. The figure summarizes the condition of the fund.

Department of Agriculture Coal Tax Shared State Special Revenue				
	FY 2008	FY 2009	FY 2010	FY 2011
Beginning Balance	\$251,805	\$942,933	\$1,708,969	\$1,001,284
Expenditures				
Montana State Library	550,007	550,007	750,007	750,007
Natural Resources & Conservation	866,781	866,779	1,760,936	1,810,409
Agriculture	371,742	614,368	838,476	809,494
Total Expenditures	1,788,530	2,031,154	3,349,419	3,369,910
Revenues	2,479,658	2,797,190	2,641,734	2,660,793
Ending Fund Balance	\$942,933	\$1,708,969	\$1,001,284	\$292,167

The executive has included \$1.4 million of one-time-only requests from this fund. These requests are for grants to local libraries, conservation districts, and programs within the university system, as well as a software purchase. These one-time-only requests will significantly reduce the fund balance in the account. The fund remains structurally balanced as the ongoing expenditures do not exceed the projected revenues.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 5009 - State Grain Lab Funding Switch										
50	0.00	125,000	(125,000)	0	0	0.00	125,000	(125,000)	0	0
DP 5010 - Increase Wheat and Barley Authority										
50	1.00	0	1,204,543	0	1,204,543	1.00	0	1,204,559	0	1,204,559
Total	1.00	\$125,000	\$1,079,543	\$0	\$1,204,543 *	1.00	\$125,000	\$1,079,559	\$0	\$1,204,559 *

DP 5009 - State Grain Lab Funding Switch - The executive requests \$125,000 general fund each year of the biennium to support the State Grain Lab.

**LFD
ISSUE****Funding Formulas**

The department is required by statute to maintain an official protein testing laboratory. The state grain laboratory (lab) fulfills this purpose. The lab has been traditionally funded with fees for the services provided. A recent legislative performance audit by the Legislative Audit Division of the State Grain Lab determined that the lab is an important asset to the state, but has limited ability to control its primary revenue stream from samples inspected to maintain its viability. The audit recommended that the department seek additional or alternative funding sources to maintain the grain lab's viability. The executive proposes that the alternative funding source be general fund.

The funding matrix for the lab is a policy decision of the legislature. Approving this decision package would establish a new policy to provide on-going general fund support to the lab. This proposed policy supports the idea that the general public benefits from having a state grain lab. If the main objective of the lab is to provide timely, official, objective and accurate test results to buyers and sellers of Montana grain, then there may not be a direct correlation to the general public. However, if the lab inspects for disease, and keeps disease out of the food chain, there would be a public health benefit to the lab. In examining the goals and objectives of the lab, the latter seems to be implied but not explicitly stated.

The executive's proposal would create a funding matrix of 15 percent general fund and 85 percent lab fees. The fees for the lab are set in rule and at the control of the department. An increase to such fees is not considered in this proposal. This proposal makes the assumption that the grain lab is charging adequate rates, there are no other alternative sources of

state special revenue, and there is a public health benefit to having a grain lab. The legislature may wish to consider one or more of the following:

- Establish a statutory funding formula. This options would require a committee bill
- Do not establish a funding formula in statute, but establish a funding formula through appropriations that reflects legislative policy
 - Fund the executive request
 - Establish some other formula that reflects policy on how much the lab provides a general public benefit and how much the producers benefit with having a state lab
- Deny the decision package and request the department establish fees at a level to support the lab

DP 5010 - Increase Wheat and Barley Authority - The executive requests an increase in state special revenue funding of \$1,204,543 in FY 2010 and \$1,204,559 in FY 2011 to support wheat and barley production in Montana. This request includes converting 1.00 modified FTE to permanent, one vehicle replacement per year, increased travel, contracts and training as well as increased grant authority.

**LFD
ISSUE**

Wheat and Barley Adjustment – See the discussion in the Program Issue section

Proprietary Program Description

Hail Insurance

Program Proposed Budget

The following table summarizes the total executive budget proposal for the Hail Insurance Program by year.

Hail Insurance Fund (06052) - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2011 Adjustments	FY2011 Total
FTE	7.72	0.00	7.72	0.00	7.72
61000 Personal Services	216,731	103,205	319,936	103,781	320,512
62000 Operating Expenses	<u>88,390</u>	<u>68,571</u>	<u>156,961</u>	<u>69,411</u>	<u>157,801</u>
Total Costs	<u>\$305,121</u>	<u>\$171,776</u>	<u>\$476,897</u>	<u>\$173,192</u>	<u>\$478,313</u>

Program Description

The Hail Insurance program (fund 06052) has been in operation since 1917. The function of the program is to provide low cost hail insurance coverage for crops grown in Montana to assist producers in recovering their input costs should there be hail damage. The program insures approximately 1.9 million acres of crops with coverage exceeding \$85 million each year. The program pays for 3.17 permanent FTE and 4.55 seasonal FTE to support program operations.

Funding

The Board of Hail Insurance is responsible for estimating annual expenses and recommending the premium to be imposed on participating producers. The Department of Revenue issues the insurance policies to producers.

Program Narrative

A reserve fund is maintained to provide security for the program's financial responsibilities. The fund is required to be maintained at a level which is actuarially sound based on annual review by an accredited actuarial consultant. This assures that adequate funds are available to pay any losses, even in a catastrophic year should it occur.

- Revenues
 - Revenues are dependent upon the number of policies written for producers in a given year and investment earnings.
- Expenditures
 - Cash obligations are determined by the ongoing administrative expenses of the program, end of the season hail board approved refunds to persons insured, and an annual transfer of 3.5 percent of the gross annual fees imposed and collected, 2 percent to the Department of Revenue and 1.5 percent to the general fund at fiscal year end.

The following figure shows historical and anticipated future sources and use of funds for the operation of the fund that finances this program.

2009 Biennium Report on Internal Services Funds				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$12,117,911	\$9,078,421	\$9,774,911	\$6,378,821
Operating Expenses	11,063,715	7,182,878	11,240,152	11,241,581
Operating Revenues				
Hail Insurance Premium	7,717,879	7,500,000	7,500,000	7,500,000
Hail Insurance Premium Penalties	12,614	13,000	13,000	13,000
Investment Earnings	402,077	400,000	400,000	400,000
Other Revenues	12,953	100	100	100
Total Operating Revenues	8,145,523	7,913,100	7,913,100	7,913,100
Operating Gain (Loss)	(2,918,192)	730,222	(3,327,052)	(3,328,481)
Transfers In (out)	(121,298)	(33,732)	(69,038)	(69,038)
Ending Working Capital Balance	<u>\$9,078,421</u>	<u>\$9,774,911</u>	<u>\$6,378,821</u>	<u>\$2,981,302</u>

Present Law Adjustments

New Proposals

Statute allows for the appropriation of this fund for effective and efficient administration of the hail insurance program. These changes are included in the HB 2 portion of this budget.

The remaining funds are statutorily appropriated to the board for claims and refunds.

Proprietary Rates

The Board of Hail Insurance is responsible for estimating annual expenses and recommending the premium to be imposed on participating producers. The Department of Revenue then issues the insurance policies to producers.

Farm and Ranch Loan Program

Program Proposed Budget

The following figure summarizes the total executive budget proposal for the Montana Beginning Farm/Ranch Loan Program by year.

Beginning Farm & Ranch Loan Program (06016) - Proposed Budget					
	Base	FY2010 Adjustments	FY2010 Total	FY2011 Adjustments	FY2011 Total
FTE	0.50	0.00	0.50	0.00	0.50
61000 Personal Services	0	0	0	0	0
62000 Operating Expenses	0	58,200	58,200	58,200	58,200
Total Costs	\$0	\$58,200	\$58,200	\$58,200	\$58,200

Program Description

The Montana Beginning Farm/Ranch Loan Program is a tax-exempt bond program designed to assist beginning farmers and ranchers in the state to acquire agricultural property at lower interest rates.

The program enables lenders, individuals, partnerships, corporations, and other entities (financial institutions) to receive federally tax-exempt interest with respect to a loan or contract sale made to a beginning farmer or rancher. The financial institution, after arranging the loan or sales contract, will obtain from the Montana Agriculture Loan Authority (the "Authority"), a federally tax-exempt bond in the amount of the loan or unpaid balance.

The loan and its collateral are assigned to the financial Institution as security for the bond. In the case of a contract sale, the Authority enters into the contract, and the financial institution receives the bond to evidence the Authority's obligations under the contract. The Authority's right, title and interest in the contract will then be assigned to the beginning farmer/rancher, who assumes payment obligations under the contract.

Once the program is operational, it will fund a 0.50 FTE and related operating expenses. The FTE will not be filled until revenue will support it.

Program Narrative

- Revenues
 - Funds are generated by the sale of bonds and investment earnings.
- Expenditures
 - The beginning farm/ranch program uses its funds to promote and administer the loan program and funds are only expended as needed. No loans were made in the last biennium.

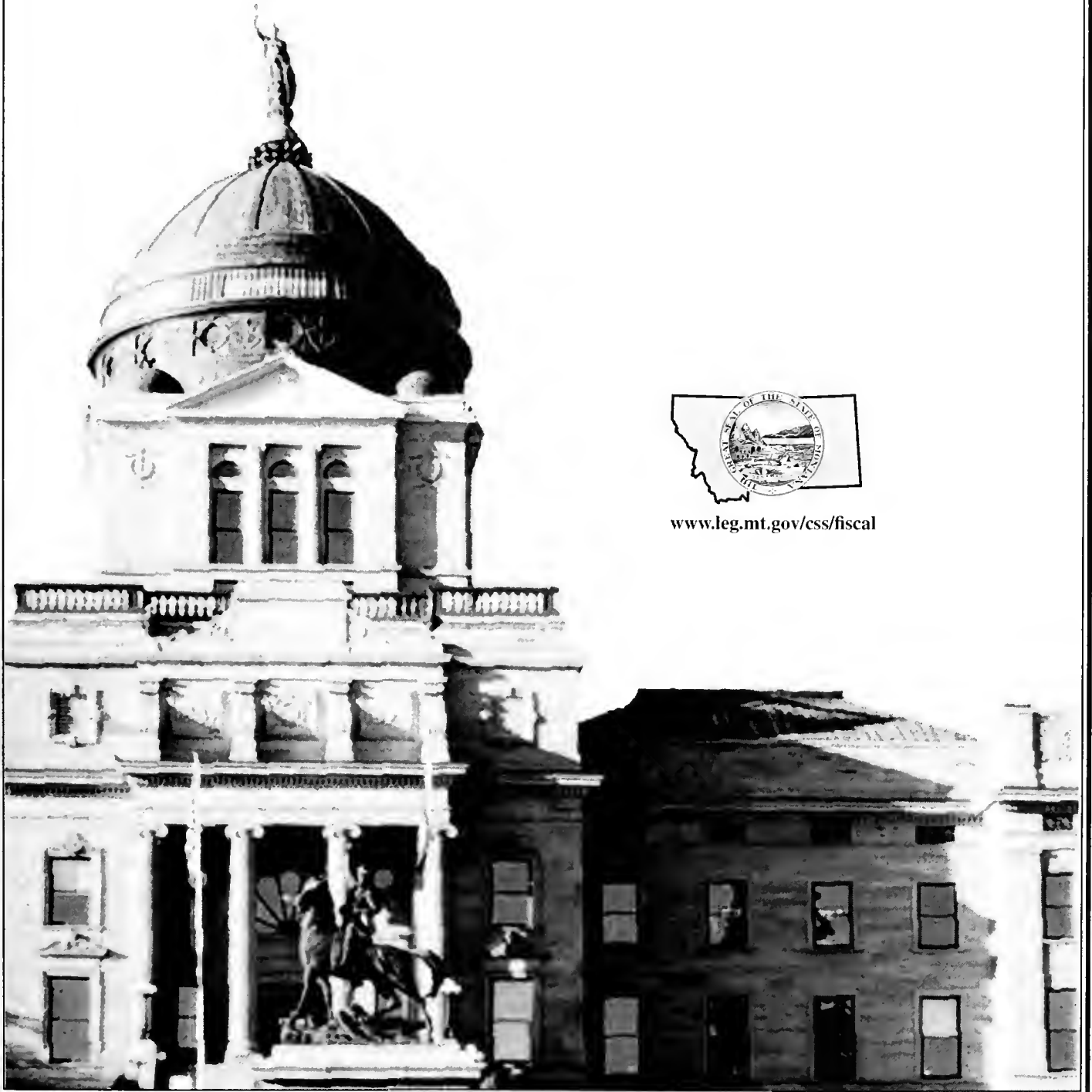
The following figure shows historical and anticipated future sources and use of funds for the operation of the fund that finances this program.

2009 Biennium Report on Internal Services Funds				
	Actual 2008	Budgeted 2009	Projected 2010	Projected 2011
Beginning Working Capital Balance	\$2,377	\$2,403	\$4,253	\$6,103
Operating Expenses	0	58,200	58,200	58,200
<u>Operating Revenues</u>				
Loan Fees	0	60,000	60,000	60,000
Investment Earnings	25	50	50	50
Other Revenues	1	0	0	0
Total Operating Revenues	26	60,050	60,050	60,050
Operating Gain (Loss)	26	1,850	1,850	1,850
Ending Working Capital Balance	\$2,403	\$4,253	\$6,103	\$7,953

Proprietary Rates

Applicants pay a \$50 application fee and a loan participation fee of 1.5 percent of the value of the bond.

Glossary / Acronyms / Index



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Glossary

A number of terms are used extensively in budgeting and appropriations. The most common terms, which are used throughout the budget analysis and in other fiscal materials, are listed and defined below.

Appropriations – An authorization by law for the expenditure of funds or to acquire obligations. Types of appropriations are listed below.

Biennial – A biennial appropriation is an appropriation made in the first year of the biennium, where the appropriated amount can be spent in either year of the biennium.

Budget amendment – See “Budget Amendment” below.

Continuing – An appropriation that continues beyond one biennium.

Language – An appropriation made in the language of the general appropriations act for a non-specific or limited dollar amount. Language appropriations are generally used when an agency knows that it will be receiving federal or state special revenue funds but is uncertain as to the amount.

Line Item – An appropriation made for a specific purpose and which cannot be used for any other purpose. Line item appropriations highlight certain appropriations and ensure that they can be separately tracked on the state accounting system.

One-time – Appropriations for a one-time purpose that are excluded from the base budget in the next biennium.

Restricted – An appropriation designated for a specific purpose or function.

Statutory – Funds appropriated in permanent law rather than a temporary bill. All statutory appropriations references are listed in 17-7-502, MCA.

Temporary - An appropriation authorized by the legislature in the general appropriations act or in a “cat and dog” bill that is valid only for the biennium.

Appropriation Transfers (also see “Supplemental Appropriation”) – The transfer of funds appropriated for the second year of the biennium to the first if the Governor or other approving authority determines that due to an unforeseen or unanticipated emergency there are insufficient funds in the first year for the operation of an agency.

Approving Authority – The entity designated in law as having the authority to approve certain budgetary changes during the interim. The approving authorities are:

- The Governor or his/her designated representative for executive branch agencies
- The Chief Justice of the Supreme Court or his/her designated representative for the judicial branch agencies
- The Speaker of the House of Representatives for the House;
- The President of the Senate for the Senate
- The appropriate standing legislative committees or designated representative for the legislative branch divisions
- The Board of Regents of Higher Education or their designated representative for the university system

Average Daily Population (ADP) – The population measure used to calculate population in the Montana correctional system. ADP is equivalent to one inmate incarcerated for one year.

Average Number Belonging (ANB) – The enrollment measure used for K-12 BASE aid calculations. ANB is the equivalent of one full-time student enrolled in school for the full school year.

Base – The level of funding authorized by the previous legislature.

Base Budget – The resources needed for the operation of state government that provide for expenses of an ongoing and non-extraordinary nature in the current biennium.

Benefits – An expenditure category used to account for the provision of payments or services by the government to individuals who qualify for receipt of those payments or services, such as Medicaid benefits. Personal services benefits for state employees are included in the personal services expenditure category.

Biennial Appropriation – An appropriation that can be expended in either or both years of the biennium.

Biennium – A two-year period. For the state, this period begins July 1 of the odd-numbered years and ends June 30 of the following odd-numbered year.

Budget Amendments – Temporary authority to spend unanticipated non-general fund revenue received after the legislature adjourns. The funds must be used to provide additional services and cannot make a commitment of general fund support for the present or future.

Cat and Dog Appropriations – One-time appropriations made in bills other than the general appropriations act.

Debt Service – The payment on outstanding bonds.

Decision Package – Separate, specific adjustments to the base budget. Decision packages can be either present law adjustments or new proposals.

Earmarked Revenue – Funds from a specific source that can be spent only for designated activities.

Enterprise Funds – A fund used to account for operations financed and operated similar to private business enterprises, where the intent of the legislature is to finance or recover costs, primarily through user charges.

Federal Special Revenue – Accounts deposited in the state treasury from federal sources, to be used for the operation of state government.

Fiduciary Funds – Funds used to account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, other governments, or other funds.

Fiscal Note - An estimate, prepared by the Office of Budget and Program Planning, of the probable revenues and costs that will be incurred as the result of a bill or joint resolution.

Fiscal Year (FY) aka State Fiscal Year (SFY) – A 12-month accounting period beginning July 1 and ending June 30. Fiscal year 2003 refers to the fiscal year ending June 30, 2003. (Note: The federal fiscal year (FFY) is October 1 through September 30.)

Fixed Costs – Fees (fixed costs) charged to agencies for a variety of services provided by other state agencies (e.g., payroll service fees, rent, warrant writing services, and data network services.).

FTE – Full-Time Equivalent position, or the equivalent of one person working full-time for the entire year. Also used to denote full-time equivalent students in the Montana University System for purposes of calculating state support.

Fund – A fiscal entity with revenues and expenses which are segregated for the purpose of carrying out a specific purpose or activity.

General Fund – Accounts for all governmental financial resources except those that must be accounted for in another fund.

General Fund Reversions – Unspent appropriated funds that are returned to the general fund at the close of the budget period.

Grants – An expenditure category used to account for the payment by a government entity to an individual or other entity who will perform a service.

HB 2 – The General Appropriations Act in which the legislature authorizes the funding for state government for the upcoming biennium. Each session, House Bill 2 is reserved for this purpose.

Indirect Cost – A cost necessary for the functioning of the organization as a whole, but which cannot be directly assigned to a specific division or agency.

Interim – The time between regular legislative sessions.

Internal Service Funds – Funds use to account for the financing of goods and services provided by one department or agency to other departments, agencies, or governmental entities on a cost-reimbursement basis.

IRIS - The Integrated Revenue Information System (IRIS) is an automated system to administer taxes that are the responsibility of the Department of Revenue to collect.

Local Assistance – An expenditure classification primarily used to account for expenditures made for K-12 funding provided by the state to school districts.

MBARS – The Montana Budget Analysis and Reporting System, which provides all state agencies with one computerized system for budget development, maintenance and tracking, and is integrated with the State Accounting, Budget, and Human Resource System (SABHRS).

Mill – The property tax rate based on the valuation of property. A tax rate of one mill produces one dollar of taxes on each \$1,000 of assessed property value.

New Proposals – Requests (decision packages) to provide new non-mandated services, to change program services, to eliminate existing services, or to change the source of funds.

Non-budgeted Expenditures – Accounting entries for depreciation, amortization, and other financial transactions that appear as expenditures, but don't actually result in direct dispersal of funds from the state treasury.

Operating Expenses – All operating expenditures that do not meet the personal services and capital outlay classification criteria. These expenditures include, but are not limited to, professional services, supplies, rent, travel, and repair and maintenance.

Other Funds – Capital projects and fiduciary funds.

Capital projects fund – Accounts for financial resources used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds.

Fiduciary funds – Trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agency for individuals, private organizations, other governmental entities, or other funds.

Pay Plan – Provision by the legislature of a general adjustment to salaries and/or benefits paid to state employees. Also refers to the pay schedule listing the state salary rate for each classified position according to that position's grade and the market rate.

Personal Services – Expenditures for salaries, benefits, per diem, and other additions, such as overtime.

Personal Services Snapshot – The point in time at which personal services attributes are captured and from which the personal services budget is determined. The executive budget personal services costs are based on a "snapshot" of actual salaries for authorized FTE as they existed in a pre-determined pay period in the base year.

Present Law – The additional level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature.

Present Law Adjustments – Requests (decision packages) for an adjustment in funding sufficient to allow maintenance of operations and services at the level authorized by the previous legislature (e.g., caseload, enrollment changes, and legally mandated workload).

Program – A group of related activities performed by one or more organizational units for the purpose of accomplishing a function for which the government is responsible. Also, a grouping of functions or objectives that provides the basis for legislative review of agency activities for appropriations and accountability purposes.

Proprietary Funds – Enterprise or internal service funds. Statute does not require that most proprietary funds be appropriated.

Enterprise funds – Funds that account for operations financed and operated in a manner similar to private business enterprises, and through which the intent is to provide goods or services to the public.

Internal service funds – Funds that account for the financing of goods or services provided by one department or agency to other departments or agencies of state government.

Reporting Levels – Budget units dividing agency and program budgets into smaller units for the purpose of constructing, analyzing, and approving budgets.

SABHRS – The State Accounting, Budget, and Human Resource System that combines the state's accounting, budgeting, personnel, payroll, and asset management systems into one single system.

State Special Revenue – Accounts for money from state and other nonfederal sources that is earmarked for a particular purpose, as well as money from other non-state or nonfederal sources that is restricted by law or by the terms of an agreement.

Supplemental Appropriation – An additional appropriation made by the governing body after the budget year or biennium has started. There are two types of supplemental appropriations that can be used to increase spending authority for a fiscal year: 1) a transaction in an even-numbered year that moves spending authority from the second year of the biennium to the first year; or 2) an appropriation passed and approved by the legislature to provide authority for the odd-numbered fiscal year ending the current biennium.

Vacancy Savings – The difference between what agencies actually spend for personal services and the cost of fully funding all funded positions for the entire year.

Acronyms

AES	Agricultural Experiment Station	LAD	Legislative Audit Division
ADP	Average Daily Population	LEPO	Legislative Environmental Policy Office
ANB	Average Number Belonging (K-12 education)	LFA	Legislative Fiscal Analyst
ARM	Administrative Rules of Montana	LFC	Legislative Finance Committee
BASE Aid	Base Amount for School Equity Aid	LFD	Legislative Fiscal Division
BPE	Board of Public Education	LRBP	Long Range Building Program
C&A	Cultural and Aesthetic (Trust)	LRP	Long Range Planning
CC	Community Colleges	LSD	Legislative Services Division
CES	Cooperative Extension Service	MAC	Montana Arts Council
CHE	Commissioner of Higher Education	MBARS	Montana Budgeting, Analysis, and Reporting System
CHIP	Children's Health Insurance Program (also SCHIP)	MBCC	Montana Board of Crime Control
CIO	Chief Information Officer	MBMG	Montana Bureau of Mines and Geology
COPP	Commissioner of Political Practices	MCA	Montana Code Annotated
COT	College of Technology, followed by campus designation	MCHA	Montana Comprehensive Health Association
CPI	Consumer Price Index	MDC	Montana Developmental Center
DEQ	Department of Environmental Quality	MDT	Montana Department of Transportation
DMA	Department of Military Affairs	MHP	Montana Highway Patrol
DNRC	Department of Natural Resources and Conservation	MHS	Montana Historical Society
DOA	Department of Administration	MSDB	Montana School for the Deaf and Blind
DOA	Department of Agriculture	MSF	Montana State Fund
DOC	Department of Commerce	MSL	Montana State Library
DOC	Department of Corrections	MSP	Montana State Prison
DOJ	Department of Justice	MSU	Montana State University, followed by campus designation i.e. MSU – Bozeman
DOLI	Department of Labor and Industry	MUS	Montana University System
DOR	Department of Revenue	NP	New Proposal
DP	Decision Package	OBPP	Office of Budget and Program Planning
DPHHS	Department of Public Health and Human Services	OCHE	Office of the Commissioner of Higher Education
FCES	Forestry and Conservation Experiment Station	OPI	Office of Public Instruction
FMAP	Federal Medical Assistance Participation rate (Medicaid)	PERS	Public Employees Retirement System
FSR	Federal Special Revenue	PL	Present Law
FSTS	Fire Services Training School	PSC	Public Service Commission
FTE	Full-Time Equivalent	RIGWA	Resource Indemnity and Groundwater Assessment Tax
FWP	Department of Fish, Wildlife, and Parks	RIT	Resource Indemnity Trust
FFY	Federal Fiscal Year	SABHRS	Statewide Accounting, Budgeting, and Human Resources System
FY	Fiscal Year	SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
FYE	Fiscal Year End	SAO	State Auditor's Office
GAAP	Generally Accepted Accounting Principles	SF&C	Senate Finance and Claims Committee
GF	General Fund	SOS	Secretary of State
GSL	Guaranteed Student Loan	SSR	State Special Revenue
GTB	Guaranteed Tax Base	TANF	Temporary Assistance for Needy Families
HAC	House Appropriations Committee	TRS	Teachers' Retirement System
HSRA	Highways Special Revenue Account	TSEP	Treasure State Endowment Program
I&I	Interest and Income	UM	University of Montana, followed by campus designation i.e. UM – Missoula
IRIS	Integrated Revenue Information System		
IT	Information Technology		
ITSD	Information Technology Services Division		

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